AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 86 Tuesday

No. 175 September 14, 2021

Pages 50981–51256

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 86 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

Contents

Federal Register

Vol. 86, No. 175

Tuesday, September 14, 2021

Agriculture Department
See Food and Nutrition Service
See Forest Service

Antitrust Division
NOTICES
Response to Public Comments:
United States v. Evangelical Community Hospital, et ano., 51183–51196

Census Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
American Community Survey, 51112–51113

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 51157–51160

Coast Guard
RULES
Safety Zone:
Explosives arc at Military Ocean Terminal Concord, Suisun Bay, Concord, CA, 50998–51000
Potomac River, Prince William County, VA, 50996–50998
Special Local Regulation:
Roar on the River, Detroit River, Wyandotte, MI, 50994–50996
PROPOSED RULES
Great Lakes Pilotage Rates—2022 Annual Review and Revisions to Methodology, 51047–51081
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 51169–51171

Commerce Department
See Census Bureau
See Industry and Security Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Meetings, 51128

Education Department
NOTICES
Reopening the Fiscal Year 2021 Competition for Certain Eligible Applicants; National Comprehensive Center on Improving Literacy for Students With Disabilities, 51128–51129
Reopening the Fiscal Year 2022 Competition for Certain Eligible Applicants:
Education Research and Special Education Research Grant Programs, 51129–51130

Energy Department
See Federal Energy Regulatory Commission
See Southwestern Power Administration
RULES
Energy Conservation Program:
Test Procedure for Distribution Transformers, 51230–51255
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 51130–51131

Environmental Protection Agency
RULES
Deletions from the National Priorities List, 51010–51013
State Underground Storage Tank Program:
Alabama; Final Approval of Revisions, Codification, and Incorporation by Reference, 51004–51009
Temporary Exemption from the Requirement of a Tolerance:
Defensin Proteins Derived from Spinach in Citrus Plants, 51001–51004
PROPOSED RULES
Proposed Deletion from the National Priorities List, 51045–51047
State Underground Storage Tank Program:
Alabama; Final Approval of Revisions, Codification, and Incorporation by Reference, 51044–51045
NOTICES
Preliminary Effluent Guidelines Program Plan 15, 51155–51156

Export-Import Bank
NOTICES
Meetings; Sunshine Act, 51156

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Airbus Helicopters Deutschland GmbH Helicopters, 51042–51044
Austro Engine GmbH Engines, 51026–51029
Bell Textron Canada Limited Helicopters, 51035–51038
Bell Textron Canada Ltd., 51038–51041
Bombardier, Inc. Airplanes, 51029–51033
Daher Aerospace (Type Certificate Previously Held by SOCATA) Airplanes, 51033–51035
Leonardo S.p.a. Helicopters, 51022–51026
NOTICES
Surplus Property Release:
Spokane International Airport, Spokane, WA, 51218–51219

Federal Communications Commission
RULES
Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing Inc. Petition for Rulemaking; Correction, 51013–51014
PROPOSED RULES
Numbering Policies for Modern Communications, 51081–51092

Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State/Local/Tribal Hazard Mitigation Plans, 51174
Threat and Hazard Identification and Risk Assessment—Stakeholder Preparedness Review (SPR) Unified Reporting Tool, 51177–51178
Flood Hazard Determinations; Changes, 51171–51173
Flood Hazard Determinations; Proposals, 51175–51177
Meetings:
Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act, 51174–51175

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 51131–51133
Combined Filings, 51134–51136, 51139–51140
Environmental Assessments; Availability, etc.:
Village of Gouverneur, NY, 51136
Filing:
Edison Electric Institute, American Gas Association, 51138–51139
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Montague Solar, LLC, 51133–51134
NRG Curtailment Solutions, Inc., 51141
Institution of Section 206 Proceeding and Refund Effective Date:
ISO New England, Inc., 51140
Meetings:
Office of Public Participation; Virtual Workshop on Technical Assistance, 51140
Permit Application:
Kinet, Inc., 51139
Scoping Period Requesting Comments on Environmental Issues:
Rover Pipeline LLC; North Coast Interconnect Project, 51136–51138

Federal Highway Administration
NOTICES
Rescinding a Notice of Intent To Prepare an Environmental Impact Statement:
I–71/I–75 Brent Spence Bridge Corridor Improvements Project, Hamilton County, OH and Kenton County, KY, 51219

Federal Motor Carrier Safety Administration
NOTICES
Meetings:
Medical Review Board, 51219–51220

Federal Transit Administration
NOTICES
Fiscal Year 2021 Competitive Funding Opportunity:
Route Planning Restoration Program, 51220–51224

Fish and Wildlife Service
PROPOSED RULES
Incidental Take:
Eagle Permits, 51094–51097

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Additional Information to be Collected under the Uniform Grant Application Package for Discretionary Grant Programs for The Emergency Food Assistance Program Reach and Resiliency Grants, 51110–51111
School Nutrition and Meal Cost Study–II, 51098–51110

Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Urban Forest Engagement in Atlanta, GA, 51111–51112

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Nonindigenous Aquatic Species eDNA Data Submission Forms, 51181–51182

Health and Human Services Department
See Centers for Disease Control and Prevention
See National Institutes of Health
NOTICES
Meetings:
National Biodefense Science Board, 51160
Ninth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19, 51160–51166

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Older Adult Home Modification Evaluation, 51178–51180
Meetings:
Moving to Work Research Advisory Committee, 51180–51181

Industry and Security Bureau
NOTICES
Order Denying Export Privileges:
Andy Lloyd Huebschmann, 51117–51118
Eli Ramirez-Rios, 51115–51116
Katherine O'Neal, 51116–51117
Rrok Martin Camaj, 51114–51115
Tengiz Sydykov, 51113–51114

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Interest Rates and Appropriate Foreign Loss Payment Patterns of Certain Controlled Corporations, 51225–51226

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Carbon and Certain Alloy Steel Wire Rod from Mexico, 51121–51122
Methionine from Japan and Spain, 51119–51121
Seamless Carbon and Alloy Steel Standard, 51118–51119

International Trade Commission
NOTICES
Institution of Investigation:
Certain Video Security Equipment and Systems, Related Software, Components Thereof, and Products Containing Same, 51182–51183

Justice Department
See Antitrust Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Update with changes, of a previously approved collection which expires November, 2021: Department of Justice Equitable Sharing Agreement and Certification, 51197

Land Management Bureau
NOTICES
Filing of Plats of Survey:
Oklahoma, 51182

Maritime Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Mariner Survey Pre-Test, 51224–51225

National Aeronautics and Space Administration
NOTICES
Requests for Nominations:
National Space Council Users' Advisory Group, 51197–51198

National Endowment for the Arts
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2022 Survey of Public Participation in the Arts, 51198–51199

National Foundation on the Arts and the Humanities
See National Endowment for the Arts

National Highway Traffic Safety Administration
PROPOSED RULES
Public Hearing:
Corporate Average Fuel Economy Standards for Model Years 2024–2026 Passenger Cars and Light Trucks, 51092–51094

National Institute of Standards and Technology
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Analysis of Exoskeleton-Use for Enhancing Human Performance Data Collection, 51122–51123

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer, 51168–51169
Meetings:
Center for Scientific Review, 51167–51168
National Heart, Lung, and Blood Institute, 51166–51168

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Atlantic Bluefin Tuna Fisheries, 51016–51017
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
Electronic Reporting for Federally Permitted Charter Vessels and Headboats in Gulf of Mexico Fisheries, 51014–51016
Fisheries Off West Coast States:
West Coast Salmon Fisheries; Amendment 21 to the Pacific Coast Salmon Fishery Management Plan, 51017–51021
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Documentation of Fish Harvest, 51125
Evaluation of Public Visitors' Experience at the National Marine Sanctuaries Visitor Centers and Exhibits, 51125–51126
Permits for Incidental Taking of Endangered or Threatened Species, 51127
Satellite Customer Questionnaire, 51124–51125
Meetings:
North Pacific Fishery Management Council, 51123–51124
Pacific Fishery Management Council, 51126

Occupational Safety and Health Review Commission
NOTICES
Privacy Act; Systems of Records, 51199–51201

Patent and Trademark Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Third-Party Submissions and Protests, 51127–51128

Presidential Documents
PROCLAMATIONS
Special Observances:
National Days of Prayer and Remembrance (Proc. 10251), 50981–50982
World Suicide Prevention Day (Proc. 10252), 50983–50984
EXECUTIVE ORDERS
Government Agencies and Employees:
Coronavirus Disease 2019 Vaccination; Requirement for Federal Employees (EO 14043), 50989–50990
COVID Safety Protocols for Federal Contractors; Improvement Efforts (EO 14042), 50985–50988
ADMINISTRATIVE ORDERS
Foreign Assistance Act of 1961; Delegation of Authorities Under Sections 552(c)(2) and 506(a)(1) (Memorandum of September 7, 2021), 50991

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 51203–51204
Financial Industry Regulatory Authority, Inc., 51207–51210
ICE Clear Credit LLC, 51204–51207
MEMX LLC, 51210–51216
New York Stock Exchange LLC, 51201–51203

Small Business Administration
NOTICES
Major Disaster Declaration:
Louisiana, 51216–51217

Southwestern Power Administration
NOTICES
Integrated System Rate Schedules, 51141–51155

State Department
RULES
Exchange Visitor Program—Sanctions, 50993–50994

Susquehanna River Basin Commission
NOTICES
Grandfathering Registration, 51217
Projects Approved:
Consumptive Uses of Water, 51217–51218
Minor Modifications, 51217

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Transit Administration
See Maritime Administration
See National Highway Traffic Safety Administration

Treasury Department
See Internal Revenue Service
NOTICES
Meetings:
Financial Research Advisory Committee, 51226

Veterans Affairs Department
RULES
Extension of the Presumptive Period for Compensation for Persian Gulf War Veterans, 51000–51001
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
VA Loan Electronic Reporting Interface System, 51226–51227

Separate Parts In This Issue

Part II
Energy Department, 51230–51255

Reader Aids

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

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

10251 50981
10252 50983

Executive Orders:

14042 50985
14043 50989

Administrative Orders:

Memorandums:
Memorandum of September 7, 2021 50991

10 CFR

431 51230

14 CFR

Proposed Rules:

39 (7 documents) 51022, 51026, 51029, 51033, 51035, 51038, 51042

22 CFR

62 50993

33 CFR

100 50994
165 (2 documents) 50996, 50998

38 CFR

3 51000

40 CFR

174 51001
281 51004
282 51004
300 51010

Proposed Rules:

281 51044
282 51044
300 51045

46 CFR

Proposed Rules:

401 51047
404 51047

47 CFR

79 51013

Proposed Rules:

52 51081

49 CFR

Proposed Rules:

531 51092
533 51092
536 51092
537 51092

50 CFR

622 51014
635 51016
660 51017

Proposed Rules:

22 51094

Federal Register
Vol. 86, No. 175
Tuesday, September 14, 2021

Presidential Documents

Title 3—

The President

Proclamation 10251 of September 9, 2021

National Days of Prayer and Remembrance, 2021

By the President of the United States of America

A Proclamation

Twenty years ago, our Nation was forever changed. On September 11, 2001, as ordinary people started their days in Manhattan, Shanksville, and Arlington, cowardly acts born out of twisted hate stole 2,977 innocent lives, devastating families and communities. People across the world were shocked by the cruelty and horror of the terrorist act, even as they were inspired by the bravery of the first responders. Two decades have passed since that day of terror, yet the trauma, the pain, and the quest for justice—both personal and collective—still haunt our memories. Planes piercing buildings. Smoke filling skies. Towers turning to dust. The injured fleeing to safety. The heroes rushing toward danger.

During the National Days of Prayer and Remembrance, we honor those who lost their lives on September 11—lives that will never be forgotten. We also commemorate the humanity and selfless sacrifice of the first responders, service members, and ordinary citizens who banded together to rescue survivors and build a community of support around those who suffered unimaginable loss. Even as we continue to recover from this tragedy, we know for certain that there is nothing that America cannot overcome. Through sorrow, with God's help, we find strength. Through remembrance, in God's mercy, we find healing. We move forward with resolve, forever cherishing the memories of the souls who perished that day.

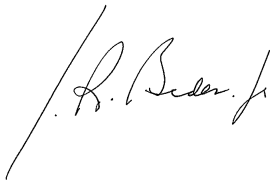
The seeds of chaos, planted that September by those who wished to harm us, blossomed instead into fields of hope for a brighter future. A new generation of patriots—many of whom were just children on that bright September morning, some of whom had not yet been born—now serve in our Armed Forces, as law enforcement officers and firefighters, as paramedics, in the halls of our Federal buildings, and beyond, determined to build our country back better, safer, and more united.

During these National Days of Prayer and Remembrance, we solemnly reflect on the freedom and tolerance that are part of our American character. We commit to preserving the memories of our fallen loved ones with the same tenacity with which we uphold the American values that are the root of our strength. We pray for the victims and all those who still mourn their loss. May the power of prayer bring comfort, and may God bless the United States of America.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 10, 2021, through September 12, 2021, as National Days of Prayer and Remembrance. I ask that people of the United States honor and remember the victims of September 11, 2001, and their loved ones through prayer, contemplation, memorial services, the visiting of memorials, the ringing of bells, evening candlelight remembrance vigils, and other appropriate ceremonies and activities. I invite people around the world to participate in this commemoration. I invite the citizens of our Nation to give thanks, in accordance with their own faiths and consciences, for our many freedoms and blessings, and

I join all people of faith in prayers for spiritual guidance, mercy, and protection.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of September, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–19920
Filed 9–13–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Proclamation 10252 of September 9, 2021

World Suicide Prevention Day, 2021

By the President of the United States of America

A Proclamation

Today, the United States joins the World Health Organization, the International Association for Suicide Prevention, and nations around the world in commemorating World Suicide Prevention Day by ''creating hope through action.'' On this day, and every day, we remember those lives lost to suicide. We also commit to connecting with those who are struggling and to encouraging communities, organizations, and governments to work together to prevent suicide.

Suicide often occurs in a moment of unbearable pain or deep despair. Many individuals with mental health needs are overcome with a sense of overwhelming hopelessness, and feel they have nowhere to turn.

Already, millions of Americans consider suicide, make a suicide plan, or attempt suicide every year—especially young Americans for whom suicide is the second leading cause of death. This number is even higher among LGBTQ+ and Native American youth.

In 2019, suicide was the 10th leading cause of death in the United States, and the second leading cause of death for young people between the ages of 10 and 34. And that was before the COVID–19 pandemic compounded, for many, feelings of isolation, exhaustion, and economic and public health-related anxieties. Increased rates of depression have sparked concern that we will see a further increase in suicide rates.

Too many of our Nation's veterans and active military service members have also considered suicide or taken their own lives. In many cases, they did not receive the mental health services they need and deserve. In order to fulfill our Nation's one sacred obligation to care for our troops and their families, I have made veteran suicide prevention a top priority. Earlier this year, I was proud to sign the Sgt. Ketchum Rural Veterans Mental Health Act of 2021 into law to provide additional mental health care for rural veterans. In my budget, I also requested $598 million to support the Department of Veterans Affairs suicide prevention outreach efforts.

I have proposed $180 million to fund suicide prevention programs at the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration. This dedicated funding will support programming that focuses on suicide prevention at every age and stage of a person's life, as well as prevention and intervention programs through health systems. Knowing that our Nation's youth have been especially vulnerable to the mental health impacts of the COVID–19 pandemic, the American Rescue Plan I signed into law also includes $20 million in funding specifically for youth suicide prevention.

My Administration is committed to treating suicide as the public health problem it is and helping to address the underlying risk factors for suicide. For example, we are working to expand access to mental health and substance use treatment. We are ensuring health insurance plans act in accordance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and cover these critical services at the same level as physical health services.

While there is no one cause of suicide, we know there are many factors that increase a person's risk for suicide, including the loss of a job; serious illness; and financial, criminal, legal, and relationship problems.

Through the American Rescue Plan and my proposed Fiscal Year 2022 budget, we are working to mitigate these risk factors. The American Rescue Plan provided a third round of economic impact payments, established a homeowner assistance fund, and provided emergency rental assistance.

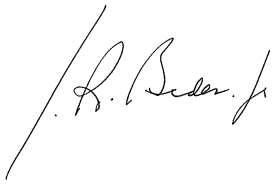
My Administration is also committed to addressing suicide by firearm. Firearms are responsible for over half of all suicide deaths in the United States. That is one of the reasons we have published model red flag laws for States—allowing family members and law enforcement to petition for a temporary firearms ban for individuals who present a danger to themselves or others. When people present a danger to themselves or others, we must reduce their access to lethal means and ensure they have access to mental health services and supports.

If you or a loved one are thinking about suicide, please know that you are not alone and help is available 24/7 by calling the National Suicide Prevention Lifeline at 1–800–273–TALK or through the Crisis Text Line by texting HOME to 741741. Next July, the new Mental Health Crisis Line 9–8–8 will take effect. By expanding the crisis line and investing in our Nation's crisis care infrastructure, we have the opportunity to prevent suicides and save lives.

Today, on World Suicide Prevention Day, we remember those whom we lost to suicide, and we reconfirm our support for the millions of Americans who struggle with thoughts of suicide, who are suicide attempt survivors, suicide loss survivors, and those who are working steadfastly to prevent suicide.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 10, 2021, as World Suicide Prevention Day. I call upon all Americans, communities, organizations, and all levels of government to join me in creating hope through action and committing to preventing suicide across America.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of September, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2021–19923
Filed 9–13–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Executive Order 14042 of September 9, 2021

Ensuring Adequate COVID Safety Protocols for Federal Contractors

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.,* and section 301 of title 3, United States Code, and in order to promote economy and efficiency in procurement by contracting with sources that provide adequate COVID–19 safeguards for their workforce, it is hereby ordered as follows:

Section 1. *Policy.* This order promotes economy and efficiency in Federal procurement by ensuring that the parties that contract with the Federal Government provide adequate COVID–19 safeguards to their workers performing on or in connection with a Federal Government contract or contract-like instrument as described in section 5(a) of this order. These safeguards will decrease the spread of COVID–19, which will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors at sites where they are performing work for the Federal Government. Accordingly, ensuring that Federal contractors and subcontractors are adequately protected from COVID–19 will bolster economy and efficiency in Federal procurement.

Sec. 2. *Providing for Adequate COVID–19 Safety Protocols for Federal Contractors and Subcontractors.* (a) Executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A) (agencies), shall, to the extent permitted by law, ensure that contracts and contract-like instruments (as described in section 5(a) of this order) include a clause that the contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance or Guidance), provided that the Director of the Office of Management and Budget (Director) approves the Task Force Guidance and determines that the Guidance, if adhered to by contractors or subcontractors, will promote economy and efficiency in Federal contracting. This clause shall apply to any workplace locations (as specified by the Task Force Guidance) in which an individual is working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order).

(b) By September 24, 2021, the Safer Federal Workforce Task Force (Task Force) shall, as part of its issuance of Task Force Guidance, provide definitions of relevant terms for contractors and subcontractors, explanations of protocols required of contractors and subcontractors to comply with workplace safety guidance, and any exceptions to Task Force Guidance that apply to contractor and subcontractor workplace locations and individuals in those locations working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order).

(c) Prior to the Task Force publishing new Guidance related to COVID–19 for contractor or subcontractor workplace locations, including the Guidance developed pursuant to subsection (b) of this section, the Director shall, as an exercise of the delegation of my authority under the Federal Property

and Administrative Services Act, *see* 3 U.S.C. 301, determine whether such Guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. Upon an affirmative determination by the Director, the Director's approval of the Guidance, and subsequent issuance of such Guidance by the Task Force, contractors and subcontractors working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order), shall adhere to the requirements of the newly published Guidance, in accordance with the clause described in subsection (a) of this section. The Director shall publish such determination in the *Federal Register*.

(d) Nothing in this order shall excuse noncompliance with any applicable State law or municipal ordinance establishing more protective safety protocols than those established under this order or with any more protective Federal law, regulation, or agency instructions for contractor or subcontractor employees working at a Federal building or a federally controlled workplace.

(e) For purposes of this order, the term ''contract or contract-like instrument'' shall have the meaning set forth in the Department of Labor's proposed rule, ''Increasing the Minimum Wage for Federal Contractors,'' 86 FR 38816, 38887 (July 22, 2021). If the Department of Labor issues a final rule relating to that proposed rule, that term shall have the meaning set forth in that final rule.

Sec. 3. *Regulations and Implementation.* (a) The Federal Acquisition Regulatory Council, to the extent permitted by law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the clause described in section 2(a) of this order, and shall, by October 8, 2021, take initial steps to implement appropriate policy direction to acquisition offices for use of the clause by recommending that agencies exercise their authority under subpart 1.4 of the Federal Acquisition Regulation.

(b) By October 8, 2021, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts and contract-like instruments as described in section 5(a) of this order that are not subject to the Federal Acquisition Regulation and that are entered into on or after October 15, 2021, consistent with the effective date of such agency action, include the clause described in section 2(a) of this order.

Sec. 4. *Severability.* If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

Sec. 5. *Applicability.* (a) This order shall apply to any new contract; new contract-like instrument; new solicitation for a contract or contract-like instrument; extension or renewal of an existing contract or contract-like instrument; and exercise of an option on an existing contract or contract-like instrument, if:

(i) it is a procurement contract or contract-like instrument for services, construction, or a leasehold interest in real property;

(ii) it is a contract or contract-like instrument for services covered by the Service Contract Act, 41 U.S.C. 6701 *et seq.;*

(iii) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or

(iv) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public;

(b) This order shall not apply to:

(i) grants;

(ii) contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended;

(iii) contracts or subcontracts whose value is equal to or less than the simplified acquisition threshold, as that term is defined in section 2.101 of the Federal Acquisition Regulation;

(iv) employees who perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the Federal Acquisition Regulation; or

(v) subcontracts solely for the provision of products.

Sec. 6. *Effective Date.* (a) Except as provided in subsection (b) of this section, this order is effective immediately and shall apply to new contracts; new contract-like instruments; new solicitations for contracts or contract-like instruments; extensions or renewals of existing contracts or contract-like instruments; and exercises of options on existing contracts or contract-like instruments, as described in section 5(a) of this order, where the relevant contract or contract-like instrument will be entered into, the relevant contract or contract-like instrument will be extended or renewed, or the relevant option will be exercised, on or after:

(i) October 15, 2021, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 3(a) of this order; or

(ii) for contracts and contract-like instruments that are not subject to the Federal Acquisition Regulation and where an agency action is taken pursuant to section 3(b) of this order, October 15, 2021, consistent with the effective date for such action.

(b) As an exception to subsection (a) of this section, where agencies have issued a solicitation before the effective date for the relevant action taken pursuant to section 3 of this order and entered into a new contract or contract-like instrument resulting from such solicitation within 30 days of such effective date, such agencies are strongly encouraged to ensure that the safety protocols specified in section 2 of this order are applied in the new contract or contract-like instrument. But if that contract or contract-like instrument term is subsequently extended or renewed, or an option is subsequently exercised under that contract or contract-like instrument, the safety protocols specified in section 2 of this order shall apply to that extension, renewal, or option.

(c) For all existing contracts and contract-like instruments, solicitations issued between the date of this order and the effective dates set forth in this section, and contracts and contract-like instruments entered into between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged, to the extent permitted by law, to ensure that the safety protocols required under those contracts and contract-like instruments are consistent with the requirements specified in section 2 of this order.

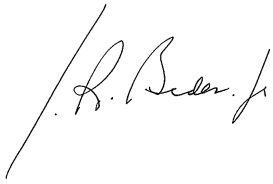
Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
September 9, 2021.

[FR Doc. 2021–19924
Filed 9–13–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Executive Order 14043 of September 9, 2021

Requiring Coronavirus Disease 2019 Vaccination for Federal Employees

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301, 3302, and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* It is the policy of my Administration to halt the spread of coronavirus disease 2019 (COVID–19), including the B.1.617.2 (Delta) variant, by relying on the best available data and science-based public health measures. The Delta variant, currently the predominant variant of the virus in the United States, is highly contagious and has led to a rapid rise in cases and hospitalizations. The nationwide public health emergency, first declared by the Secretary of Health and Human Services on January 31, 2020, remains in effect, as does the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) declared pursuant to the National Emergencies Act in Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak). The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services has determined that the best way to slow the spread of COVID–19 and to prevent infection by the Delta variant or other variants is to be vaccinated.

COVID–19 vaccines are widely available in the United States. They protect people from getting infected and severely ill, and they significantly reduce the likelihood of hospitalization and death. As of the date of this order, one of the COVID–19 vaccines, the Pfizer-BioNTech COVID–19 Vaccine, also known as Comirnaty, has received approval from the Food and Drug Administration (FDA), and two others, the Moderna COVID–19 Vaccine and the Janssen COVID–19 Vaccine, have been authorized by the FDA for emergency use. The FDA has determined that all three vaccines meet its rigorous standards for safety, effectiveness, and manufacturing quality.

The health and safety of the Federal workforce, and the health and safety of members of the public with whom they interact, are foundational to the efficiency of the civil service. I have determined that ensuring the health and safety of the Federal workforce and the efficiency of the civil service requires immediate action to protect the Federal workforce and individuals interacting with the Federal workforce. It is essential that Federal employees take all available steps to protect themselves and avoid spreading COVID–19 to their co-workers and members of the public. The CDC has found that the best way to do so is to be vaccinated.

The Safer Federal Workforce Task Force (Task Force), established by Executive Order 13991 of January 20, 2021 (Protecting the Federal Workforce and Requiring Mask-Wearing), has issued important guidance to protect the Federal workforce and individuals interacting with the Federal workforce. Agencies have also taken important actions, including in some cases requiring COVID–19 vaccination for members of their workforce.

Accordingly, building on these actions, and in light of the public health guidance regarding the most effective and necessary defenses against COVID–19, I have determined that to promote the health and safety of the Federal workforce and the efficiency of the civil service, it is necessary to require COVID–19 vaccination for all Federal employees, subject to such exceptions as required by law.

Sec. 2. *Mandatory Coronavirus Disease 2019 Vaccination for Federal Employees.* Each agency shall implement, to the extent consistent with applicable law, a program to require COVID–19 vaccination for all of its Federal employees, with exceptions only as required by law. The Task Force shall issue guidance within 7 days of the date of this order on agency implementation of this requirement for all agencies covered by this order.

Sec. 3. *Definitions.* For the purposes of this order:

(a) The term ''agency'' means an Executive agency as defined in 5 U.S.C. 105 (excluding the Government Accountability Office).

(b) The term ''employee'' means an employee as defined in 5 U.S.C. 2105 (including an employee paid from nonappropriated funds as referenced in 5 U.S.C. 2105(c)).

Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

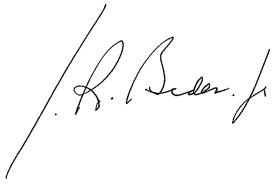
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of any of its other provisions to any other persons or circumstances shall not be affected thereby.



THE WHITE HOUSE,
September 9, 2021.

[FR Doc. 2021–19927
Filed 9–13–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

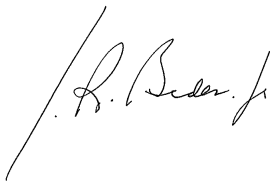
Memorandum of September 7, 2021

Delegation of Authorities Under Sections 552(c)(2) and 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the authority under section 552(c)(2) of the Foreign Assistance Act of 1961 to direct the drawdown of up to $25 million in commodities and services from the inventory and resources of any agency of the United States Government to provide immediate assistance to the Lebanese Armed Forces. I also hereby delegate to the Secretary of State the authority under section 506(a)(1) of the Foreign Assistance Act of 1961 to direct the drawdown of up to $22 million in defense articles and services from the Department of Defense to provide immediate assistance to the Lebanese Armed Forces. The Secretary of State is authorized to make the appropriate congressional notification and determination required under each section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, September 7, 2021

[FR Doc. 2021–19932
Filed 9–13–21; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register

Vol. 86, No. 175

Tuesday, September 14, 2021

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

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

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice: 11538]

RIN 1400–AF38

Exchange Visitor Program—Sanctions; Notifications

AGENCY: U.S. Department of State.

ACTION: Final rule.

SUMMARY: The U.S. Department of State (Department) is amending existing Exchange Visitor Program regulations governing the manner in which the Department may accomplish service of a notice to a sponsor that is the subject of a sanction action, to include electronic mail (email) as an acceptable method of providing written notice.

DATES: This regulation is effective on October 14, 2021.

FOR FURTHER INFORMATION CONTACT: G. Kevin Saba, Director, Office of Policy and Program Support, Private Sector Exchange Directorate, Bureau of Educational and Cultural Affairs, U.S. Department of State, SA–4E, 2200 C Street NW, Washington, DC 20522–0505. Email: *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION: The Department oversees the Exchange Visitor Program, a federal educational and cultural exchange program, in accordance with its authorizing statute, the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act, 22 U.S.C. 2451, *et seq.*). The Department, which facilitates these programs to further the foreign policy objectives of the United States, determines the suitability of public and private entities to be ''designated sponsors'' to conduct individual exchange programs. When the Department suspects that designated sponsors have violated the Exchange Visitor Program regulations set forth in 22 CFR part 62, it may initiate sanction actions pursuant to the sanction provisions set forth in Subpart D thereof.

In this rulemaking, the Department amends the current regulatory provision governing the service of written notice to designated sponsors by adding electronic mail to the list of acceptable means of providing such service. Current regulations limit service to three methods enumerated in 22 CFR 62.50(j)(2), *i.e.,* delivery, mail, or facsimile. Despite advances in technology and standard business procedures, the regulations have not expanded this list for more than 30 years. In 2008, the ''portable document format'' (PDF) became an open file format standard. Using email with PDF attachments became a preferred means of transmitting documents because it is readily available, paperless, reliable, virtually without cost, does not require a land-line telephone connection or a fax machine, can be remotely accessed, and offers privacy not available on fax machines situated in public locations within an office suite. Most designated sponsors submit documents to the Department by attaching PDF files to email messages.

As part of the designation and redesignation application process, a sponsor must provide the Department the email addresses of its Responsible Officer and all Alternate Responsible Officers to facilitate communications between the Department and the sponsor organization. Sponsors must report changes in these email addresses to the Department within ten days (22 CFR 62.13(c)(1)). These emails will be used by the Department to serve written notice of sanctions to sponsors by electronic means. The Department's service of sanction emails will include an automatic delivery notification back to the Department.

The Department is issuing this simple regulatory clarification as a final rule since it expands the methods by which it can serve written notice in sanction actions, without eliminating any of the current options.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department is issuing this rulemaking as a final rule, pursuant to 5 U.S.C. 553(b), as a rule of agency procedure or practice. In this rulemaking, the Department is adding a mechanism for providing documents to sponsors but is not removing any avenues of communication or imposing any costs. For this reason, the Department believes that notice and public comment thereon are not necessary.

Congressional Review Act

This regulation is not a major rule as defined by 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*).

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department has determined that this regulation will not have tribal implications; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Regulatory Flexibility Act: Small Business Impacts

Since this rule is exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the Administrative Procedure Act, this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* (1980)).

Executive Orders 12866 and 13563

The Department believes that the benefits of this rulemaking outweigh any costs, which are negligible for the public and program sponsors. The Office of Information and Regulatory Affairs has determined that this is a non-significant rule under Executive Order 12866.

Executive Order 12988

The Department has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens.

Executive Orders 12372 and 13132—Federalism

The Department finds that this regulation does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rulemaking does not create or affect any information collection that is subject to 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 62

Cultural exchange programs, Reporting and recordkeeping requirements.

For reasons stated in the preamble, the State Department amends 22 CFR part 62 as follows:

PART 62—EXCHANGE VISITOR PROGRAM

■ 1. The Authority citation for part 62 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431 *et seq.;* 22 U.S.C. 2451 *et seq.;* 22 U.S.C. 2651a; 22 U.S.C. 6531–6553; Reorganization Plan No. 2 of 1977, 42 FR 62461, 3 CFR, 1977 Comp. p. 200; E.O. 12048, 43 FR 13361, 3 CFR, 1978 Comp., p. 168; 8 U.S.C. 1372; section 416 of Pub. L. 107–56, 115 Stat. 354 (8 U.S.C. 1372 note); and 8 U.S.C. 1761–1762.

■ 2. Revise § 62.50(j)(2) to read as follows:

§ 62.50 Sanctions.

* * * * *

(j) * * *

(2) *Service of notice to sponsor.* Service of notice to a sponsor pursuant to this section may be accomplished through written notice by mail, delivery, electronic mail, or facsimile, upon the president, chief executive officer, managing director, General Counsel, Responsible Officer, or Alternate Responsible Officer of the sponsor.

Zachary A. Parker,

Director, Office of Directives Management, Department of State.

[FR Doc. 2021–19746 Filed 9–13–21; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2021–0622]

RIN 1625–AA08

Special Local Regulations; Roar on the River, Detroit River, Wyandotte, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for certain waters of the Detroit River, Wyandotte, MI. This action is necessary to protect safety of life on navigable waters immediately prior to, during, and after the Roar on the River power boat race. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit or a designated representative.

DATES: This regulation is effective from 11 a.m. through 1 p.m. on September 25, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0622 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 Ms. Tracy Girard, Waterways Management Division, Sector Detroit, U.S. Coast Guard; telephone (313) 568–9564, email *Tracy.M.Girard@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 we must establish this special local regulation by September 25, 2021. Delaying the effective date of this regulation for a comment period to run would be contrary to the public interest and impractical because it would inhibit the Coast Guard's ability to protect spectators and vessels from the potential safety hazards associated with a power boat race.

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 Roar on the River Powerboat Race on September 25, 2021, will be a safety concern for anyone navigating within the Trenton Channel in the Detroit River.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation from 11 a.m. through 1 p.m. on September 25, 2021. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass the following waterway: All waters of the Detroit River encompassed within the following four points: From point 42°14.160′ N, 083°08.580′ W (NAD 83); a line drawn south to point 42°14.140′ N, 083°08.400′ W (NAD 83); a line drawn east to position ′42°14.1407′ N, 083°08.280′ W (NAD 83); a line drawn north to position ′42°14.0407′ N, 083°08.460′ W (NAD 83); a line drawn west to point 42°14.160′ N, 083°08.580′ W (NAD 83). The COTP or a designated on-scene representative will notify the public of the enforcement of this rule by all appropriate means, including a Broadcast Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. Vessel traffic will be able to safely transit around this regulated area which would impact a small designated area of the Detroit River for two hours in an area where vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter 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 area 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 special local regulation lasts two hours and will prohibit entry within the navigable waters of the Detroit River, It is categorically excluded from further review under paragraph L[61] 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 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 § 100.T05–0622 to read as follows:

§ 100.T05–0622 Special Local Regulations; Roar on the River, Detroit River, Wyandotte, MI.

(a) *Location.* A regulated area is established to encompass the following waterway: All waters of the Detroit River encompassed within the following four points: from point 42°14.160′ N, 083°08.580′ W, a line drawn south to point 42°14.140′ N, 083°08.400′ W a line drawn east to position ′42°14.1407′ N, 083°08.280′ W; a line drawn north to position ′42°14.0407′ N, 083°08.460′ W; a line drawn west to point 42°14.160′ N, 083°08.580′ W (NAD 83).

(b) *Enforcement period.* The regulation will be enforced from 11 a.m. through 1 p.m. on September 25, 2021. The Captain of the Port Detroit will announce specific enforcement periods by Broadcast Notice to Mariners (BNM).

(c) *Regulations.* (1) In accordance with the general regulations in § 100.911(b), no vessel may enter, transit through, or

anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

Dated: September 8, 2021.

Brad W. Kelly,

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

[FR Doc. 2021–19757 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0497]

RIN 1625–AA00

Safety Zone; Potomac River, Prince William County, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters near Cherry Hill, in Prince William County, VA, on September 18, 2021, (with alternate date of September 19, 2021) from potential hazards during a fireworks display to commemorate the the permanent closing of the Tim's Rivershore Restaurant and Crabhouse of Dumfries, VA, after operating for many years. 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 8:30 p.m. on September 18, 2021, through 11 p.m. on September 19, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0497 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

On June 16, 2021, Tim's Rivershore Restaurant and Crabhouse notified the Coast Guard that from 9:30 p.m. to 10 p.m. on September 18, 2021, it will be conducting a fireworks display launched from a barge in the Potomac River near Cherry Hill, in Prince William County, VA. In the event of inclement weather, the fireworks display will be scheduled for September 19, 2021. In response, on August 16, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Potomac River, Prince William County, VA'' (86 FR 45699). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended August 31, 2021, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the fireworks display. Potential safety hazards include the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

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 18, 2021, display will be a safety concern for anyone near the fireworks barge. 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.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 8:30 p.m. on September 18, 2021, to 11 p.m. on September 19, 2021. The safety zone will be enforced from 8:30 p.m. to 11 p.m. on September 18, 2021, or, if necessary due to inclement weather on September 18, 2021, from 8:30 p.m. to 11 p.m. on September 19, 2021. The safety zone covers all navigable waters of the Potomac River within 500 feet of the fireworks barge in approximate position latitude 38°34′07.97″ N, longitude 077°15′37.39″ W, located near Cherry Hill, in Prince William County, VA. The size of the zone and duration of the regulation are intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled 9:30 to 10 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 Potomac River for 2.5 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 2.5 hours that will prohibit entry within a portion of the Potomac River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0497 to read as follows:

§ 165.T05–0497 Safety Zone; Potomac River, Prince William County, VA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Potomac River, within 500 feet of the fireworks barge in approximate position latitude 38°34′07.97″ N, longitude 077°15′37.39″ W, located near Cherry Hill, in Prince William County, VA. These coordinates are based on datum NAD 83.

(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). 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 period. This section will be enforced from 8:30 p.m. to 11 p.m. on September 18, 2021. If necessary due to inclement weather on September 18, 2021, it will be enforced from 8:30 p.m. to 11 p.m. on September 19, 2021.

Dated: September 8, 2021.

David E. O'Connell,

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

[FR Doc. 2021–19763 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0732]

RIN 1625–AA00

Safety Zone; Explosives arc at Military Ocean Terminal Concord, Suisun Bay, Concord, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Suisun Bay, off Concord, CA, in support of explosive off and on-loading to Military Ocean Terminal Concord (MOTCO). This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without the permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective without actual notice from September 14, 2021 through 11:59 p.m. September 18, 2021. For the purposes of enforcement, actual notice will be used from September 13, 2021 until September 14, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0732 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 Lieutenant Junior Grade William Harris, Waterways Management, U.S. Coast Guard; telephone (415) 399–7443, email *SFWaterways@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 impractical. The Coast Guard received the initial report of larger explosives arc on September 8, 2021. It is impractical to go through the full notice and comment rule making process because the Coast Guard must establish this temporary safety zone by September 13, 2021 and lacks sufficient time to provide a reasonable comment period and to consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to protect personnel, vessels, and the marine environment in the navigable waters around the potentially hazardous explosive off and on-loading.

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 San Francisco (COTP) has determined that potential hazards associated with the explosive off and on-loading will exist between September 13, 2021 and September 18, 2021. There will be a safety concern for anyone within a 4,500-foot radius of the explosive off and on-load. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters surrounding the potentially hazardous off and on-loading operations.

IV. Discussion of the Rule

This rule establishes a temporary safety zone in the navigable waters around the explosives off and on-loading occurring at MOTCO off Concord, CA for a five-day cargo operation period conducted between September 13, 2021 and September 18, 2021. The temporary safety zone will encompass the navigable waters of Suisun Bay, from surface to bottom, within a circle formed by connecting all points 4,500 feet out from the location of the explosive material at approximate position 38°3.54″ N, 122°0.82″ W or as announced via Broadcast Notice to Mariners. The projected explosive arc presents the need for a 4,500 foot radius, which is larger than the safety zone already established in 33 CFR 165.1198.

This regulation is necessary to keep persons and vessels away from the immediate vicinity of the explosive materials during cargo operations, and to ensure the safety of personnel, vessels, and the marine environment. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted area. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

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 limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the water encompassed by the safety zone, the effect of this rule will not be significant because the local waterways users will be notified to ensure the safety zone will result in minimum impact. The vessels desiring to transit through or around the temporary safety zone may do so upon express permission from the COTP or the COTP's designated representative.

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 temporary safety zone may be small entities, for the reasons stated in section V.A. above, this rule rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone in the navigable waters around the explosives off and on-loading occurring at Military Ocean Terminal Concord (MOTCO), off Concord, CA. 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.T11–066 to read as follows:

§ 165.T11–066 Safety Zone; Explosive arc at Military Ocean Terminal Concord, Suisun Bay, Concord, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of Suisun Bay, from surface to bottom, within a circle formed by connecting all points 4,500 feet out from the location of the explosive material at approximate position 38°3.54″ N, 122°0.82″ W or as announced via Broadcast Notice to Mariners.

(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 designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

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

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through

the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement period.* This section will be enforced from September 13, 2021 at 12:01 a.m. until September 18, 2021 at 11:59 p.m. or as announced via marine information broadcast.

(e) *Information broadcasts.* The COTP or the COTP's designated representative will notify the maritime community of periods during which this zone will be enforced in accordance with 33 CFR 165.7.

Dated: September 9, 2021.

Jordan M. Baldueza,

Captain, U.S. Coast Guard, Alternate Captain of the Port, Sector San Francisco.

[FR Doc. 2021–19901 Filed 9–10–21; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AR22

Extension of the Presumptive Period for Compensation for Persian Gulf War Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Interim Final Rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing this interim final rule to amend its adjudication regulations regarding compensation for disabilities resulting from undiagnosed illnesses suffered by Veterans who served in the Persian Gulf War. This amendment is necessary to extend the presumptive period for qualifying chronic disabilities resulting from undiagnosed illnesses that must manifest to a compensable degree in order to establish entitlement to disability compensation benefits. The intended effect of this amendment is to provide consistency in VA adjudication policy, preserve certain rights afforded to Persian Gulf War Veterans and ensure fairness for current and future Persian Gulf War Veterans.

DATES:

Effective date: This interim final rule is effective September 14, 2021.

Applicability date: The provisions of this interim final rule shall apply to all applications for benefits that are received by VA on or after the effective date of this interim final rule or that are pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit on the effective date of this interim final rule.

Comments due date: Comments must be received on or before October 14, 2021.

ADDRESSES: Comments may be submitted through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AR22—Extension of the Presumptive Period for Compensation for Persian Gulf War Veterans.'' Comments received will be available at *www.regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Robert Parks, Chief, Regulations Staff (211D), Compensation Service, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9540. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

I. Background

In response to the needs and concerns of Veterans who served in the Southwest Asia theater of operations during the Persian Gulf War, Congress enacted the Persian Gulf War Veterans' Benefits Act, Title I of the Veterans' Benefits Improvement Act of 1994, Public Law 103–446, which was codified in relevant part at 38 U.S.C. 1117. This law provided authority for the Secretary of Veterans Affairs (Secretary) to compensate eligible Persian Gulf War Veterans with a chronic disability resulting from an undiagnosed illness. That illness must have become manifest either during active duty service in the Southwest Asia theater of operations during the Persian Gulf War, or disabling to a degree of 10 percent or more during a period determined by the Secretary and prescribed by regulation. The Secretary would determine this period after reviewing any credible medical or scientific evidence, the historical treatment afforded disabilities for which VA had established such periods, and other pertinent circumstances regarding the experiences of Veterans of the Persian Gulf War.

As required by Public Law 105–368, the National Academy of Sciences (NAS) reviewed, evaluated, and summarized the scientific and medical literature for possible association between service in the Southwest Asia theater of operations and long-term adverse health effects. Following review of NAS reports on Gulf War and Health, volumes 9, 10, and 11, VA concludes that the evidence remains inconclusive regarding the time of onset of undiagnosed and other illnesses related to Persian Gulf War service. (NAS reports are available at *http://nationalacademies.org*)

II. Extension of Current Deadline

Currently, military operations in the Southwest Asia theater of operations continue. No end date for the Persian Gulf War has been established by Congress or the President. See 38 U.S.C. 101(33) (defining the term ''Persian Gulf War''). Because scientific uncertainty remains as to the cause and time of onset of illnesses suffered by Persian Gulf War Veterans and current research studies are inconclusive, limiting entitlement to benefits payable under 38 U.S.C. 1117 due to the expiration of the presumptive period in 38 CFR 3.317(a)(1)(i) would be premature. If extension of the current presumptive period is not implemented, servicemembers whose conditions manifest after December 31, 2021, would be substantially disadvantaged compared to servicemembers whose conditions manifested at an earlier date.

Therefore, VA is extending the presumptive period in 38 CFR 3.317(a)(1)(i) for qualifying chronic disabilities that become manifest to a degree of 10 percent or more through December 31, 2026 (a period of five years), to ensure those benefits established by Congress are fairly administered.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under the provisions of 5 U.S.C. 553(b)(B) and (d)(3) to publish this rule without prior opportunity for public comment and to publish this rule with an immediate effective date. Absent extension of the sunset date in the current regulation, VA's authority to provide benefits in new claims for qualifying chronic disability in Persian Gulf War Veterans will lapse on December 31, 2021. A lapse of such authority would be contrary to the public interest because it would have a significant adverse impact on veterans disabled due to such disabilities. To avoid such impact, VA is issuing this rule as an interim final rule, effective upon date of publication. However, VA invites public comments on this interim final rule and will fully consider and address any comments received.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic,

environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov*

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612).

Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This interim final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are: 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.109, Veterans Compensation for Service-Connected Disability.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on July 26, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.317, paragraph (a)(1)(i) is revised to read as follows:

§ 3.317 Compensation for certain disabilities occurring in Persian Gulf veterans.

(a) * * *

(1) * * *

(i) Became manifest either during active military, naval, or air service in the Southwest Asia theater of operations, or to a degree of 10 percent or more not later than December 31, 2026; and

* * * * *

(Authority: 38 U.S.C. 1117, 1118).

[FR Doc. 2021–19712 Filed 9–13–21; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2021–0170; FRL–8908–01–OCSPP]

Defensin Proteins Derived From Spinach in Citrus Plants; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8 in or on citrus when used as a plant-incorporated protectant in accordance with the terms of Experimental Use Permit (EUP) No. 88232–EUP–1. Southern Gardens Citrus Nursery, LLC., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8. The temporary tolerance exemption expires on May 31, 2025.

DATES: This regulation is effective September 14, 2021. Objections and requests for hearings must be received on or before November 15, 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–2021–0170, 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: Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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 174 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–2021–0170 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 November 15, 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–2021–0170, 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. Background

In the **Federal Register** of March 22, 2021 (86 FR 15162) (FRL–10021–44), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 1G8896) by Southern Gardens Citrus Nursery, LLC., 1820 Country Road 833, Clewiston, Florida 33440. The petition requested that the temporary tolerance exemption established in 40 CFR 174.535 be amended and extended for residues of defensin proteins SoD2, SoD2*, SoD7, and SoD8 derived from spinach. Because the temporary tolerance exemption expired before we could complete this action, we are treating this as a petition to reestablish a temporary tolerance exemption. The notice of filing referenced a summary of the petition prepared by the petitioner Southern Gardens Citrus, LLC., which is available in the docket for this action at *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require 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 . . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that 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 reviewed the available toxicity and exposure data on spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8 and considered its validity, completeness and reliability, and the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Review of the application for renewal and extension of experimental use permit 88232–EUP–1 and extension of the associated temporary tolerance exemption for the defensin proteins SoD2, SoD2*, SoD7, and SoD8 derived from spinach (*Spinacia oleracea* L.) used as a plant-incorporated protectant in citrus plants at 40 CFR part 174.535 for additional 4 years, until May 31, 2025'' dated June 24, 2021 (Ref. 1). This document, as well as other relevant information, is available in docket for this action as described under **ADDRESSES**.

Based upon available data, EPA concludes that spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8, do not show evidence of toxicity (Ref. 2). Moreover, there is no significant similarity between spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8 and known toxins and allergens. In addition, the spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8 readily digest in simulated gastric fluids and therefore cumulative, chronic, and acute effects are unlikely. Furthermore, the source of the defensin proteins, spinach, has long been part of the human diet and there have been no findings that indicate toxicity or allergenicity of spinach proteins (Ref. 2).

Given the lack of toxicity or allergenicity of the spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8, the Agency has not identified any toxicological endpoints for assessing risk. Due to the lack of any threshold effects, EPA has determined that the

provision under FFDCA section 408(b)(2)(C) to retain a 10X safety factor for the protection of infants and children does not apply. Similarly, the lack of any toxic mode of action or toxic metabolites means that the provision requiring an assessment of cumulative effects does not apply.

Oral exposure to spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8 may occur from ingestion of citrus products, such as fruit and juice. In addition, people have had a long history of consumption of spinach and will continue to be exposed to defensin proteins through consumption of spinach. Based on the lack of adverse effects and the rapid digestibility of the proteins, however, the Agency does not anticipate any risk from reasonably foreseeable levels of exposure. Since the plant-incorporated protectant is integrated into the plant's genome, the Agency has concluded, based upon previous science reviews, that residues in drinking water will be extremely low or non-existent (Ref. 2). Non-occupational exposure via the skin or inhalation is not likely since the plant-incorporated protectant is contained within plant cells, which essentially eliminates these exposure routes or reduces these exposure routes to negligible. In any event, there are no non-dietary non-occupational uses of SoD2, SoD2*, SoD7, and SoD8 as they are only used in agricultural settings.

B. Analytical Enforcement Methodology

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

C. Conclusion

Based on its evaluation, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to the spinach defensin proteins SoD2, SoD2*, SoD7, and SoD8. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as previously discussed, there is no indication of toxicity or allergenicity potential for the plant-incorporated protectant. Therefore, a temporary exemption from the requirement of a tolerance is established for residues of spinach defensin SoD2, SoD2*, SoD7, and SoD8 proteins in or on citrus when the proteins are used as a plant-incorporated protectant in citrus plants. This exemption is being established concurrently with an extension to the experimental use permit (EUP) No. 88232–EUP–1 and is therefore being established on a temporary basis. Both the EUP and temporary tolerance exemption will expire on May 31, 2025.

D. References

The following is a listing of documents that are specifically referenced in this document. These documents are available in the listed dockets at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) via the direct links below.

1. U.S. EPA, ''Review of the application for renewal and extension of experimental use permit 88232–EUP–1 and extension of the associated temporary tolerance exemption for the defensin proteins SoD2, SoD2*, SoD7, and SoD8 derived from spinach (*Spinacia oleracea* L.) used as a plant-incorporated protectant in citrus plants at 40 CFR part 174.535 for additional 4 years, until May 31, 2025.'' June 24, 2021. *https://www.regulations.gov/document/EPA-HQ-OPP-2021-0170.*
2. U.S. EPA, ''Review of Product Characterization, Toxicity Waiver Requests, Allergenicity, and Human Health Data for Plant-Incorporated Protectants (PIPs): Defensin proteins derived from spinach (*Spinach oleracea* L.) Sod2, Sod2*, Sod7, Sod8.'' April 24, 2018. *https://www.regulations.gov/document/EPA-HQ-OPP-2018-0040-0007.*

IV. Statutory and Executive Order Reviews

This action establishes a temporary exemption from the requirement of a tolerance 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 temporary 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).

V. 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 174

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

Dated: August 25, 2021.

Charles Smith,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

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

PART 174—PROCEDURES AND REQUIREMENTS FOR PLANT-INCORPORATED PROTECTANTS

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 321(q), 346a and 371.

■ 2. Revise § 174.535 to read as follows:

§ 174.535 Spinach Defensin proteins; temporary exemption from the requirement of a tolerance.

Residues of the defensin proteins SoD2, SoD2*, SoD7, and SoD8 derived from spinach (*Spinacia oleracea* L.) in or on citrus food commodities are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in citrus plants in accordance with the terms of Experimental Use Permit No. 88232–EUP–1. This temporary exemption from the requirement of a tolerance expires on May 31, 2025.

[FR Doc. 2021–18786 Filed 9–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2020–0611; FRL–8784–01–R4]

Alabama: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Alabama (Alabama or State) has applied to the Environmental Protection Agency (EPA) for final approval of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is taking direct final action, subject to public comment, to approve revisions to the UST Program. The EPA has reviewed Alabama's revisions and has determined that these revisions satisfy all requirements needed for approval. In addition, this action also codifies the EPA's approval of Alabama's revised UST Program and incorporates by reference those provisions of the State statutes and regulations that the EPA has determined meet the requirements for approval.

DATES: This rule is effective November 15, 2021, unless the EPA receives adverse comment by October 14, 2021. If the EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2021.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: self.terry@epa.gov.* Include the Docket ID No. EPA–R04–UST–2020–0611 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2020–0611, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *https://www.epa.gov/dockets/commenting-epa-dockets.*

Out of an abundance of caution for members of the public and our staff, the public's access to the EPA Region 4 Offices is by appointment only to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov* or via email. The EPA encourages electronic comment submittals, but if you are unable to submit electronically or need other assistance, please contact Terry Self, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index to the docket for this action is available electronically at *https://www.regulations.gov.* The documents that form the basis of this codification and associated publicly available docket materials are available for review on the *https://www.regulations.gov* website. The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Terry Self to schedule an appointment to view the documents at the Region 4 Offices. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. EPA Region 4 requires all visitors to adhere to the COVID–19 protocol. Please contact Terry Self for the COVID–19 protocol requirements for your appointment.

Please also contact Terry Self if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT: Terry Self, RCRA Programs and Cleanup Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–9396; email address: *self.terry@epa.gov.* Please contact Terry Self by phone or email for further information.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Alabama's Underground Storage Tank (UST) Program

A. Why are revisions to state UST programs necessary?

States that have received final approval from the EPA under section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain a UST program that is no less stringent than the Federal program. When the EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated

regulations and submit these revisions to the EPA for approval. Most commonly, states must change their programs because of changes to the EPA's regulations in title 40 of the Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their UST programs and these changes must then be approved by the EPA.

B. What decision has the EPA made in this rule?

On October 10, 2018, in accordance with 40 CFR 281.51(a), Alabama submitted a complete program revision application (State Application) seeking approval of changes to its UST Program. The program revisions requested in the State Application correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: A transmittal letter from the Governor requesting approval; a description of the program and operating procedures; a demonstration of the State's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency; an Attorney General's Statement; and copies of all relevant State statutes and regulations. The EPA has reviewed the State Application and has determined that the revisions to Alabama's UST Program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Alabama UST Program continues to provide adequate enforcement of compliance. Therefore, the EPA grants Alabama final approval to operate its UST Program with the revisions described in the State Application, and as outlined below. The Alabama Department of Environmental Management (ADEM) is the lead implementing agency for the UST program in Alabama, except in Indian country as noted below.

C. What is the effect of this approval on the regulated community?

Section 9004(b) of RCRA, 42 U.S.C. 6991c(b), as amended, allows the EPA to approve state UST programs to operate in lieu of the Federal program. With this approval, the changes described in the State Application will become part of the approved State UST Program, and therefore will be federally enforceable. Alabama will continue to have primary enforcement authority and responsibility for its State UST Program. This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already in effect in the State of Alabama, and are not changed by this action. This action merely approves the existing State regulations as meeting the 2015 Federal Revisions and rendering them federally enforceable.

D. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and we anticipate no adverse comment. Alabama addressed all comments it received during its comment period when the rules and regulations being considered in this document were proposed at the State level.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is simultaneously publishing a separate document in the ''Proposed Rules'' section of this **Federal Register** that serves as the proposal to approve the State's UST Program revisions, and provides an opportunity for public comment. If the EPA receives comments that oppose this approval, the EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before it becomes effective. The EPA will make any further decision on approval of the State Application after considering all comments received during the comment period. The EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Alabama previously been approved?

Effective March 25, 1997, the EPA granted final approval for Alabama to administer the State UST Program in lieu of the Federal UST program, and incorporated by reference and codified the federally approved State UST Program (62 FR 3613, January 24, 1997). As a result of the EPA's approval, these provisions became subject to the EPA's corrective action, inspection, and enforcement authorities under RCRA sections 9003(h), 9005, and 9006, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions.

G. What changes is the EPA approving with this action and what standards do we use for review?

In order to be approved, each state program revision application must meet the general requirements in 40 CFR 281.11 (General Requirements), and the specific requirements in 40 CFR part 281, subpart B (Components of a Program Application), subpart C (Criteria for No Less Stringent), and subpart D (Adequate Enforcement of Compliance).

As more fully described below, the State has made changes to its UST Program to reflect the 2015 Federal Revisions. These changes are included in the Alabama Administrative Code, Chapter 335–6–15 (Ala. Admin. Code chapter 335–6–15), as amended, effective December 8, 2017. The EPA is approving the State's changes because they are no less stringent than the Federal UST program, and because the revised Alabama UST Program will continue to provide for adequate enforcement of compliance as required by 40 CFR 281.11(b) and part 281, subparts C and D, after this approval.

ADEM continues to be the lead implementing agency for the UST Program in Alabama, except in Indian country. ADEM has broad statutory and regulatory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases, under the Alabama Underground Storage Tank and Wellhead Protection Act of 1988, Code of Alabama, 1975, Title 22, Chapter 36 (Ala. Code 22–36), and Ala. Admin. Code chapter 335–6–15 (2017).

The following State authorities provide authority for compliance monitoring as required by 40 CFR 281.40: Ala. Code sections 22–36–3, 22–36–4, and 22–36–6(b) and (c) and Ala. Admin. Code r. 335–6–15–.13, 335–6–15–.40, and 335–6–15–.41.

The following State authorities provide authority for enforcement response as required by 40 CFR 281.41: Ala. Code sections 22–36–3, 22–36–9, and 22–22A–5(19), and Ala. Admin. Code r. 335–6–15–.45.

The following State authorities provide authority for enabling public participation in the State enforcement process, including citizen intervention, as required by 40 CFR 281.42: Ala. Code sections 22–36–8 and 22–22A–5(19), Ala Admin. Code r. 335–6–15–.31, and Alabama Rules of Civil Procedure Rule 24(a). Further, through a Memorandum of Agreement between ADEM and the EPA, effective October 12, 2018, the State maintains procedures for receiving and ensuring proper consideration of

information about violations submitted by the public, and ADEM will not oppose citizen intervention when permissive intervention is allowed by statute, rule or regulation.

The following State authorities provide authority for the sharing of information as required pursuant to 40 CFR 281.43: Ala. Code section 22–36–8 and Ala. Admin. Code r. 335–6–15–.39. Further, through the October 12, 2018 Memorandum of Agreement between ADEM and the EPA, ADEM agrees to furnish to the EPA, upon request, any information in State files obtained or used in the administration of the State UST Program.

To qualify for final approval, revisions to a state's UST program must be no less stringent than the 2015 Federal Revisions. In the 2015 Federal Revisions, the EPA addressed UST systems deferred in the 1988 UST regulations, and added, among other things: New operation and maintenance requirements; secondary containment requirements for new and replaced tanks and piping; operator training requirements; and a requirement to ensure UST system compatibility before storing certain biofuel blends. In addition, the EPA removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems. Alabama adopted all of the required 2015 Federal Revisions at Ala. Admin. Code chapter 335–6–15 (2017).

As part of the State Application, the Alabama Attorney General has certified that the State regulations provide for adequate enforcement of compliance and meet the no less stringent criteria in 40 CFR part 281, subparts C and D. The EPA is relying on this certification, in addition to the analysis submitted by the State, in approving the State's changes.

H. Where are the revised State rules different from the Federal rules?

States may enact laws that are more stringent than their Federal counterparts. See RCRA section 9008, 42 U.S.C. 6991g. When an approved state program includes requirements that are considered more stringent than those required by Federal law, the more stringent requirements become part of the federally approved program in accordance with 40 CFR 281.12(a)(3)(i). The EPA has determined that some of Alabama's regulations are considered more stringent than the Federal program, and upon approval, they will become part of the federally approved State UST Program and therefore federally enforceable.

In addition, states may enact laws which are broader in scope than their Federal counterparts in accordance with 40 CFR 281.12(a)(3)(ii). State requirements that go beyond the scope of the Federal program are not part of the federally approved program and the EPA cannot enforce them. Although these requirements are enforceable by the State in accordance with Alabama law, they are not Federal RCRA requirements. The EPA considers the following State requirements to be broader in scope than the Federal program and therefore not part of the federally approved State UST Program:

Statutory Broader in Scope Provisions

- Ala. Code section 22–36–5, insofar as it requires the collection of underground storage tank fees.
- Ala. Code sections 22–35–1 to 22–35–13, insofar as it establishes procedures for administration of the Alabama Underground and Aboveground Storage Tank Trust Fund.

Regulatory Broader in Scope Provisions

- Ala. Admin. Code r. 335–6–15–.32, insofar as it specifies analytical methods for soil and groundwater sampling.
- Ala. Admin. Code r. 335–6–15–.42, insofar as it requires owners of underground storage tanks to pay an annual fee.
- Ala. Admin. Code r. 335–6–15–.47, insofar as it specifies certification requirements for individuals who supervise installation, closure, and repair of UST systems.
- Ala. Admin. Code chapter 335–6–16, insofar as it establishes procedures for implementation of the Alabama Underground and Aboveground Storage Tank Trust Fund.

I. How does this action affect Indian country (18 U.S.C. 1151) in Alabama?

The EPA's approval of Alabama's UST Program does not extend to Indian country as defined in 18 U.S.C. 1151, which includes the Poarch Band of Creek Indians. The EPA will retain responsibilities under RCRA for underground storage tanks in Indian country. Therefore, this action has no effect in Indian country. See 40 CFR 281.12(a)(2).

II. Codification

A. What is codification?

Codification is the process of placing citations and references to a state's statutes and regulations that comprise a state's approved UST program into the Code of Federal Regulations (CFR). The EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that the EPA can enforce, after the approval is final, under sections 9005 and 9006 of RCRA, and any other applicable statutory provisions. The incorporation by reference of EPA-approved state programs in the CFR should substantially enhance the public's ability to discern the status of the approved state UST programs and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

B. What is the history of codification of Alabama's UST Program?

In 1997, the EPA incorporated by reference and codified Alabama's approved UST Program at 40 CFR 282.50 (62 FR 3613, January 24, 1997). Through this action, the EPA is amending 40 CFR 282.50 to incorporate by reference and codify Alabama's revised UST Program.

C. What codification decisions is the EPA making in this rule?

In this rule, the EPA is finalizing regulatory text that incorporates by reference the federally approved Alabama UST Program, including the revisions made to the UST Program based on the 2015 Federal Revisions. In accordance with the requirements of 1 CFR 51.5, the EPA is incorporating by reference Alabama's statutes and regulations as described in the amendments to 40 CFR part 282 set forth below. These documents are available through *https://www.regulations.gov.* This codification reflects the State UST Program that will be in effect at the time the EPA's approval of the revisions to the Alabama UST Program addressed in this direct final rule become final. If, however, the EPA receives substantive comment on the proposed rule, this codification will not take effect and the State rules that are approved after the EPA considers public comment will be codified instead. By codifying the approved Alabama UST Program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Alabama UST Program.

Specifically, in 40 CFR 282.50(d)(1)(i), the EPA is incorporating by reference the EPA-approved Alabama UST Program. Section 282.50(d)(1)(ii) identifies the State's statutes and regulations that are part of the approved State UST Program, although not incorporated by reference for enforcement purposes, unless they impose obligations on the regulated entity. Section 282.50(d)(1)(iii)

identifies the State's statutory and regulatory provisions that are broader in scope or external to the State's approved UST Program and therefore not incorporated by reference. Section 282.50(d)(2) through (d)(5) reference the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, Program Description, and Memorandum of Agreement, which are part of the State Application and part of the UST Program under subtitle I of RCRA.

D. What is the effect of the EPA's codification of the federally approved Alabama UST Program on enforcement?

The EPA retains the authority under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions, to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved states. If the EPA determines it will take such actions in Alabama, the EPA will rely on Federal sanctions, Federal inspection authorities, and other Federal procedures rather than the State analogs. Therefore, the EPA is not incorporating by reference Alabama's procedural and enforcement authorities, although they are listed in 40 CFR 282.50(d)(1)(ii).

E. What State provisions are not part of the codification?

As discussed in section I.H. above, some provisions of the State's UST Program are not part of the federally approved State UST Program because they are broader in scope than the Federal UST program. Where an approved state program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. See 40 CFR 281.12(a)(3)(ii). As a result, State provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of enforcement in part 282. In addition, provisions that are external to the state UST Program approval requirements, but included in the State Application, are also being excluded from incorporation by reference in part 282. For reference and clarity, 40 CFR 282.50(d)(1)(iii) lists the Alabama statutory and regulatory provisions which are broader in scope than the Federal program or external to state UST program approval requirements. These provisions are, therefore, not part of the approved UST Program that the EPA is codifying. Although these provisions cannot be enforced by the EPA, the State will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order (E.O.) Reviews

The EPA's actions merely approve and codify Alabama's revised UST Program requirements pursuant to RCRA section 9004, and do not impose additional requirements other than 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 of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the 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 RCRA;
- 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); and
- Do not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. 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.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

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 document 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 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). This final action will be effective November 15, 2021.

List of Subjects in 40 CFR Parts 281 and 282

Administrative practice and procedure, Environmental protection, Hazardous substances, Incorporation by reference, Indian country, Petroleum, Reporting and recordkeeping requirements, State program approval, and Underground storage tanks.

Authority: This action is issued under the authority of sections 2002(a), 7004(b), 9004, 9005 and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), 6991c, 6991d, and 6991e.

Dated: September 8, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Revise § 282.50 to read as follows:

§ 282.50 Alabama State-Administered Program.

(a) *History of the approval of Alabama's Program.* The State of Alabama (Alabama or State) is approved to administer and enforce an underground storage tank (UST) program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et*

seq. The State's Underground Storage Tank Program (UST Program), as administered by the Alabama Department of Environmental Management (ADEM), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA approved the Alabama UST Program on January 24, 1997 and it was effective on March 25, 1997. A subsequent program revision was approved by EPA and became effective November 15, 2021.

(b) *Enforcement authority.* Alabama has primary responsibility for administering and enforcing its federally approved UST Program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Alabama must revise its approved UST Program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Alabama obtains approval for revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) *Final approval.* Alabama has final approval for the following elements of its UST Program submitted to EPA and approved effective March 25, 1997, and the program revisions approved by EPA effective on November 15, 2021:

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The Alabama materials cited in this paragraph (d)(1)(i) and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may access copies of the Alabama statutes that are incorporated by reference in this paragraph (d)(1)(i) from the Alabama Legislative Services Agency, Alabama State House, Suite 613, 11 South Union Street, Montgomery, Alabama 36110–2400; Phone number: (334) 271–7700; website: *http://lsa.state.al.us.* You may access copies of the regulations that are incorporated by reference at the following website *http://www.alabamaadministrativecode.state.al.us.* You may inspect all approved material at EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562–9900; or the National Archives and Records Administration (NARA), email: *fedreg.legal@nara.gov,* website*: https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(A) ''Alabama Statutory Requirements Applicable to the Underground Storage Tank Program,'' dated March 21, 2021.

(B) ''Alabama Regulatory Requirements Applicable to the Underground Storage Tank Program,'' dated March 21, 2021.

(ii) *Legal basis.* EPA considered the following statutes and regulations which provide the legal basis for the State's implementation of the UST Program, but they are not being incorporated by reference and do not replace Federal authorities, unless the provisions place requirements on regulated entities:

(A) Alabama Underground Storage Tank and Wellhead Protection Act of 1988, Ala. Code sections 22–36–1 to 22–36–10 (1988):

(*1*) Section 22–36–3—Rules and regulations governing underground storage tanks. Insofar as it provides specific authorities enabling compliance monitoring and enforcement response.

(*2*) Section 22–36–4—Information to be furnished by owner upon request of department; owner to permit access to records and entry and inspection of facilities. Insofar as it provides specific authorities enabling compliance monitoring.

(*3*) Section 22–36–6(b) and (c)—Expenditure of funds from Leaking Underground Storage Tank Trust Fund; investigative and corrective powers in regard to administration of funds; liability of owner or operator for costs. Insofar as it provides specific authorities enabling compliance monitoring.

(*4*) Section 22–36–8—Availability to public of records, reports, or information obtained under chapter. Insofar as it provides specific authorities enabling public participation and the sharing of information.

(*5*) Section 22–36–9—Penalties. Insofar as it provides specific authorities enabling enforcement response.

(B) Alabama Underground Storage Tank Control Regulations, Ala. Admin. Code r. 335–6–15–.01 to 335–6–15–.49 (2017):

(*1*) Rule 335–6–15–.13—Reporting and Recordkeeping. Insofar as it provides specific authorities enabling compliance monitoring.

(*2*) Rule 335–6–15–.19—Release Reporting and Recordkeeping. Insofar as it provides specific authorities enabling compliance monitoring.

(*3*) Rule 335–6–15–.31—Public Participation. Insofar as it identifies specific authorities enabling public participation.

(*4*) Rule 335–6–15–.39—Availability To Public of Records, Reports or Information. Insofar as it provides specific authorities enabling the sharing of information.

(*5*) Rule 335–6–15–.40—Access To Records. Insofar as it provides specific authorities enabling compliance monitoring.

(*6*) Rule 335–6–15–.41—Entry and Inspection Of Facilities. Insofar as it provides specific authorities enabling compliance monitoring.

(*7*) Rule 335–6–15–.45—Delivery Prohibition. Insofar as it identifies specific authorities enabling enforcement response.

(C) Ala. Code section 22–22A–5(19)—Powers and functions of Department; representation of Department by Attorney General in legal actions. Insofar as it provides specific authorities enabling enforcement and public participation.

(D) Alabama Rules of Civil Procedure, Rule 24(a)—Intervention. Insofar as it provides for public participation in the State enforcement process.

(iii) Other provisions not incorporated by reference. The following statutory and regulatory provisions applicable to the Alabama UST Program are broader in scope than the Federal program or external to the state UST program approval requirements. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference herein:

(A) Alabama Underground Storage Tank and Wellhead Protection Act of 1988, Ala. Code sections 22–36–1 to 22–36–10 (1988):

(*1*) Section 22–36–5, insofar as it requires the collection of an underground storage tank fee.

(*2*) Section 22–36–6(a) is external insofar as it pertains to ADEM's implementation of the Leaking Underground Storage Tank Trust Fund.

(*3*) Section 22–36–7 is external insofar as it provides authority for the promulgation of regulations to establish and protect wellhead areas.

(*4*) Section 22–36–10 is external insofar as it places requirements on the promulgation of rules and regulations to be adopted by ADEM.

(B) Alabama Underground Storage Tank Control Regulations, Ala. Admin. Code r. 335–6–15–.01 to 335–6–15–.49 (2017):

(*1*) Rule 335–6–15–.01 is external insofar as it contains the State's public policy for regulating underground storage tanks.

(*2*) Rule 335–6–15–.32, insofar as it specifies analytical methods for soil and groundwater sampling.

(*3*) Rule 335–6–15–.38 is external insofar as it provides specific authority for ADEM to require an owner or operator to provide an alternate or temporary drinking water source.

(*4*) Rule 335–6–15–.42, insofar as it requires owners of underground storage tanks to pay an annual fee.

(*5*) Rule 335–6–15–.44 is external insofar as it is a reserved provision.

(*6*) Rule 335–6–15–.47, insofar as it imposes certification requirements on individuals who supervise installation, closure, and repair of underground storage tanks.

(*7*) Rule 335–6–15–.49 is external insofar as it relates to the severability of the underground storage tank requirements.

(C) Alabama Underground and Aboveground Storage Tank Trust Fund Act, Code of Alabama, Ala. Code sections 22–35–1 to 22–35–13 (1988). Insofar as it establishes procedures for administration of the Alabama Underground and Aboveground Storage Tank Trust Fund for purposes of paying response actions and third-party claims.

(D) Alabama Underground and Aboveground Storage Tank Trust Fund Regulations, Ala. Admin. Code r. 335–6–16–.01 to 335–6–16–.20 (2015). Insofar it establishes procedures for determining eligibility for disbursements from the Alabama Underground and Aboveground Storage Tank Trust Fund for paying response actions and third-party claims.

(2) *Statement of legal authority.* The Attorney General's Statement, signed by the Alabama Attorney General on April 16, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Adequate Enforcement Procedures'' submitted as part of the application on October 10, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the application on October 10, 2018, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and ADEM, signed by the EPA Regional Administrator on October 12, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Amend Appendix A to part 282 by revising the entry for Alabama to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Alabama

(a) The statutory provisions include: *Alabama Underground Storage Tank and Wellhead Protection Act of 1988,* Ala. Code sections 22–36–1 to 22–36–10 (1988):

Section 22–36–1 Short title.
Section 22–36–2 Definitions.
Section 22–36–4 Information to be furnished by owner upon request of department; owner to permit access of records and entry and inspection of facilities, insofar as it imposes requirements on owners and operators of underground storage tank systems.

(b) The regulatory provisions include: *Alabama Underground Storage Tank Control Regulations,* Ala. Admin. Code r. 335–6–15–.01 to 335–6–15–.49 (2017):

Rule 335–6–15–.02 Definitions.
Rule 335–6–15–.03 Applicability.
Rule 335–6–15–.04 Installation Requirements For Partially Excluded UST Systems.
Rule 335–6–15–.05 Notification Requirements.
Rule 335–6–15–.06 Performance Standards For New UST Systems, And Dispensers.
Rule 335–6–15–.07 Upgrading Of Existing UST Systems.
Rule 335–6–15–.08 Plans and Specifications.
Rule 335–6–15–.09 Operation, Maintenance, and Testing or Inspection of Spill and Overfill Prevention Equipment And Containment Systems; And Walkthrough Inspections.
Rule 335–6–15–.10 Operation and Maintenance of Corrosion Protection.
Rule 335–6–15–.11 Compatibility.
Rule 335–6–15–.12 Repairs Allowed.
Rule 335–6–15–.13 Reporting And Recordkeeping, insofar as it imposes requirements on owners and operators.
Rule 335–6–15–.14 General Release Detection Requirements For All UST Systems.
Rule 335–6–15–.15 Release Detection Requirements For Petroleum UST Systems.
Rule 335–6–15–.16 Release Detection Requirements For Hazardous Substance UST Systems.
Rule 335–6–15–.17 Methods Of Release Detection For Underground Storage Tanks.
Rule 335–6–15–.18 Methods Of Release Detection For Underground Piping.
Rule 335–6–15–.19 Release Detection Recordkeeping, insofar as it imposes requirements on owners and operators.
Rule 335–6–15–.20 Reporting Of Suspected Releases.
Rule 335–6–15–.21 Investigation Due To Environmental Impacts.
Rule 335–6–15–.22 Release Investigation And Confirmation Steps.
Rule 335–6–15–.23 Reporting And Cleanup Of Spills And Overfills.
Rule 335–6–15–.24 Initial Release Response.
Rule 335–6–15–.25 Initial Abatement Measures And Preliminary Investigation.
Rule 335–6–15–.26 Preliminary Investigation Requirements.
Rule 335–6–15–.27 Free Product Removal.
Rule 335–6–15–.28 Secondary Investigation Requirements.
Rule 335–6–15–.29 Corrective Action Plan.
Rule 335–6–15–.30 Corrective Action Requirements.
Rule 335–6–15–.33 Temporary Closure.
Rule 335–6–15–.34 Permanent Closure And Changes-In-Service.
Rule 335–6–15–.35 Site Closure Or Change-In-Service Assessment.
Rule 335–6–15–.36 Applicability to Previously Closed UST Systems.
Rule 335–6–15–.37 Closure Records.
Rule 335–6–15–.43 Financial Responsibility for Petroleum UST Owners And Operators.
Rule 335–6–15–.46 Operator Training.
Rule 335–6–15–.48 UST Systems With Field-Constructed Tanks And UST Systems With Airport Hydrant Fuel Distribution Systems.

(c) Copies of Alabama statutes that are incorporated by reference are available from the Legislative Services Agency, Alabama State House, Suite 613, 11 South Union Street, Montgomery, Alabama 36110–2400; Phone number: (334) 271–7700; website: *http://lsa.state.al.us.* Copies of Alabama regulations that are incorporated by reference are available at the following website: *http://www.alabamaadministrativecode.state.al.us.*

* * * * *

[FR Doc. 2021–19724 Filed 9–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002, EPA–HQ–SFUND–1986–0005, EPA–HQ–SFUND–1987–0002, EPA–HQ–SFUND–1989–0011, EPA–HQ–SFUND–1990–0010, EPA–HQ–SFUND–1990–0011, EPA–HQ–SFUND–1993–0001, EPA–HQ–SFUND–2000–0004, EPA–HQ–SFUND–2002–0008, EPA–HQ–SFUND–2003–0010, EPA–HQ–SFUND–2005–0011, EPA–HQ–SFUND–2006–0759, EPA–HQ–SFUND–2009–0587, EPA–HQ–SFUND–2011–0076, EPA–HQ–SFUND–2011–0077; FRL–8923–03–OLEM]

Deletions From the National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of nine sites and the partial deletion of eleven sites from the Superfund National Priorities List (NPL). The NPL, created under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the states, through their designated state agencies, have determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring, and five-year reviews, where applicable, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Effective on September 14, 2021.

ADDRESSES:

Docket: EPA has established a docket for this action under the Docket Identification included in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. 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.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the corresponding Regional Records Centers. Locations, addresses, and phone numbers-of the Regional Records Centers follow.

Regional Records Centers:

- Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–430842.
- Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mail code 3SD42, Philadelphia, PA 19103; 215/814–3024.
- Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mail code 9T25, Atlanta, GA 30303; 404/562–8637.
- Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Records Manager, Mail code SRC–7J, Metcalfe Federal Building, 7th Floor South, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.
- Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mail code SUPR, Lenexa, KS 66219; 913/551–7956.
- Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mail code Records Center, Denver, CO 80202–1129; 303/312–7273.
- Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Suite 155, Mail stop OMP–161, Seattle, WA 98101; 206/553–4494.

The EPA is temporarily suspending Regional Records Centers for public visitors to reduce the risk of transmitting COVID–19. Information in these repositories, including the deletion docket, may not be updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets*.

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

FOR FURTHER INFORMATION CONTACT:

- Mabel Garcia, U.S. EPA Region 2 (NJ, NY, PR, VI), *garcia.mabel@epa.gov,* 212/637–4356
- Andrew Hass, U.S. EPA Region 3 (DE, DC, MD, PA, VA, WV), *hass.andrew@epa.gov,* 215/814–2049
- Leigh Lattimore or Brian Farrier, U.S. EPA Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), *lattimore.leigh@epa.gov* or *farrier.brian@epa.gov,* 404/562–8768 or 404/562–8952.
- Karen Cibulskis, U.S. EPA Region 5 (IL, IN, MI, MN, OH, WI), *cibulskis.karen@epa.gov,* 312/886–1843
- David Wennerstrom, U.S. EPA Region 7 (IA, KS, MO, NE), *wennerstrom.david@epa.gov,* 913/551–7996
- Linda Kiefer, U.S. EPA Region 8 (CO, MT, ND, SD, UT, WY), *kiefer.linda@epa.gov,* 303/312–6689
- Linda Meyer, U.S. EPA Region 10 (AK, ID, OR, WA), *meyer.linda@epa.gov,* 206/553–6636
- Chuck Sands, U.S. EPA Headquarters, *sands.charles@epa.gov,* 703/603–8857

SUPPLEMENTARY INFORMATION: The NPL, created under section 105 of CERCLA, as amended, is an appendix of the NCP. The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. Partial deletion of sites is in accordance with 40 CFR 300.425(e) and are consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466, (November 1, 1995). The sites to be deleted and partially deleted from the NPL are listed in Table 1, including docket information containing reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete. The NCP permits activities to occur at a deleted site, or that media or parcel of a partially deleted site, including operation and maintenance of the remedy, monitoring, and five-year reviews. These activities for the site are entered in Table 1 in this **SUPPLEMENTARY INFORMATION** section, if applicable, under Footnote such that; 1=site has continued operation and maintenance of the remedy, 2=site receives continued monitoring, and 3=site five-year reviews are conducted. As described in 40 CFR 300.425(e)(3) of the NCP, a site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

TABLE 1

Site name	City/county, state	Type	Docket No.	Footnote
Reich Farms	Pleasant Plains, NJ	Full	EPA–HQ–SFUND–1983–0002	2, 3
Butler Mine Tunnel	Pittston, PA	Full	EPA–HQ–SFUND–1987–0002	
Airco	Calvert City, KY	Full	EPA–HQ–SFUND–2005–0011	1, 2, 3

TABLE 1—Continued

Site name	City/county, state	Type	Docket No.	Footnote
Chemfax, Inc	Gulfport, MS	Partial	EPA–HQ–SFUND–1993–0001	1, 2, 3
Kerr-McGee Chemical Corp-Navassa	Navassa, NC	Partial	EPA–HQ–SFUND–2009–0587	
T.H. Agriculture & Nutrition (Montgomery)	Montgomery, AL	Partial	EPA–HQ–SFUND–1990–0011	1, 2, 3
US Finishing/Cone Mills	Greenville, SC	Partial	EPA–HQ–SFUND–2011–0077	
Arrowhead Refinery Co	Hermantown, MN	Full	EPA–HQ–SFUND–2005–0011	2, 3
Barrels, Inc	Lansing, MI	Full	EPA–HQ–SFUND–1989–0011	1, 3
Bennett Stone Quarry	Bloomington, IN	Full	EPA–HQ–SFUND–2005–0011	1, 2, 3
Lemon Lane Landfill	Bloomington, IN	Full	EPA–HQ–SFUND–1983–0002	1, 2, 3
South Minneapolis Residential Soil Contamination.	Minneapolis, MN	Partial	EPA–HQ–SFUND–2006–0759	
United Scrap Lead Co., Inc	Troy, OH	Full	EPA–HQ–SFUND–2005–0011	1, 3
Neal's Landfill (Bloomington)	Bloomington, IN	Full	EPA–HQ–SFUND–1983–0002	1, 2, 3
Missouri Electric Works	Cape Girardeau, MO	Partial	EPA–HQ–SFUND–1990–0010	1, 3
Omaha Lead	Omaha, NE	Partial	EPA–HQ–SFUND–2003–0010	1, 3
Riverfront	New Haven, MO	Partial	EPA–HQ–SFUND–2000–0004	1, 2, 3
Libby Asbestos	Libby, MT	Partial	EPA–HQ–SFUND–2002–0008	1, 3
Eagle Mine	Minturn/Redcliff, CO	Partial	EPA–HQ–SFUND–1986–0005	1, 3
North Ridge Estates	Klamath Falls, OR	Partial	EPA–HQ–SFUND–2011–0076	1, 3

Information concerning the sites to be deleted and partially deleted from the NPL, the proposed rule for the deletion and partial deletion of the sites, and information on receipt of public comment(s) and preparation of a Responsiveness Summary (if applicable) are included in Table 2 as follows:

TABLE 2

Site name	Date, proposed rule	FR citation	Public comment	Responsiveness summary	Full site deletion (full) or media/parcels/description for partial deletion
Reich Farms	5/14/2021	86 FR 26452	Yes	No	Full.
Butler Mine Tunnel	5/14/2021	86 FR 26452	Yes	Yes	Full.
Airco	5/14/2021	86 FR 26452	No	No	Full.
Chemfax, Inc	5/14/2021	86 FR 26452	No	No	11-acres of soils, sediments.
Kerr-McGee Chemical Corp-Navassa.	5/14/2021	86 FR 26452	No	No	20.2-acres Operable Unit (OU) 1 soils.
T.H. Agriculture & Nutrition (Montgomery).	5/14/2021	86 FR 26452	No	No	16.4-acres soils/sediments.
US Finishing/Cone Mills	5/14/2021	86 FR 26452	No	No	150-acres OU 2 with soils, sediments and surface water.
Arrowhead Refinery Co	5/14/2021	86 FR 26452	No	No	Full.
Barrels, Inc	5/14/2021	86 FR 26452	No	No	Full.
Bennett Stone Quarry	5/14/2021	86 FR 26452	Yes	No	Full.
Lemon Lane Landfill	5/14/2021	86 FR 26452	Yes	No	Full.
South Minneapolis Residential Soil Contamination.	5/14/2021	86 FR 26452	No	No	Five of remaining nine properties on NPL.
United Scrap Lead Co., Inc	5/14/2021	86 FR 26452	No	No	Full.
Neal's Landfill (Bloomington)	5/14/2021	86 FR 26452	Yes	No	Full.
Missouri Electric Works	5/14/2021	86 FR 26452	No	No	6.4-acre site property OU 1 soils and OU 3 sediments.
Omaha Lead	5/14/2021	86 FR 26452	No	No	96 residential parcels.
Riverfront	5/14/2021	86 FR 26452	No	No	1.4-acre OU 3 Old City Dump soil, groundwater, surface water, seeps.
Libby Asbestos	5/14/2021	86 FR 26452	No	No	OU 8 Roads and Highways (30 miles of roads and right-of-way).
Eagle Mine	5/14/2021	86 FR 26452	Yes	Yes	50-acre OU 2 Town of Gilman soils.
North Ridge Estates	5/14/2021	86 FR 26452	No	No	125-acre OU 1 includes Northridge Estates and former Marine Recuperation Barracks soils.

For all sites proposed for deletion, the closing date for comments in the proposed rule was June 14, 2021. The EPA received comments on six of the sites included for deletion or partial deletion in this final rule. The Bennett Stone Quarry site and the Lemon Lane Landfill site each received one public comment supportive of the proposed deletion. The Neal's Landfill (Bloomington) site received two public comments supportive of the deletion. Because no adverse comment was received for these three sites, no Responsiveness Summaries were prepared.

The Reich Farms site received an inquiry concerning the proposed deletion action. EPA responded to the inquiry by providing information available in the deletion docket to the

commenter. Because the comment was not adverse to the proposed deletion of the Reich Farms site, EPA did not prepare a Responsiveness Summary. EPA still believes the deletion action is appropriate. EPA placed the comment and a memorandum explaining EPA's response to the inquiry in the docket, EPA–HQ–SFUND–1983–0002, on *https://www.regulations.gov,* and in the Regional repository listed in the Addresses section.

The Butler Mine Tunnel site received one written comment and EPA prepared a Responsiveness Summary. The commentor did not agree with EPA's decision to delete the Butler Mine Tunnel Site from the NPL. The commentor did express concern that the storm drains in their town may be connected to boreholes which convey stormwater into underground mines. The commentor requested an investigation of their concerns, including the collection of air samples and use of camera system. Finally, the commentor expressed concern that cancer cases in their community are located near storm drains. The commentor did not specify what boreholes or underground mines they are concerned about, and did not provide their address/location, or the name of the town they refer to in their comment. The commentor did not offer any information specific to the Butler Mine Tunnel site to demonstrate that NPL deletion criteria were not met. EPA has determined that it is appropriate to proceed with the deletion because all response actions at the site are complete and the criteria for deletion have been met. A Responsiveness Summary was prepared and placed in the docket, EPA–HQ–SFUND–1987–0002, on *https://www.regulations.gov,* and in the Regional repository listed in the **ADDRESSES** section.

The Eagle Mine site received one comment. The commenter requested clarification regarding the purpose of the proposed partial deletion of OU2, the Town of Gilman, and an explanation as to what differentiates the Gilman portion of OU2 from other sources of contamination at the site. The purpose of the proposed deletion is to document cleanup completion of the Eagle Mine Superfund Site OU2. All response requirements in the OU2 Record of Decision are implemented and as such, OU2 qualifies for partial deletion from the NPL. EPA has determined that it is appropriate to proceed with the deletion because all response actions at the site are complete and the criteria for partial deletion have been met. A Responsiveness Summary was prepared and placed in the docket, EPA–HQ–SFUND–1986–0005, on *https://www.regulations.gov,* and in the Regional repository listed in the **ADDRESSES** section.

For all other sites not specified above, no adverse comments were received.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 2, 2021.

Larry Douchand,

Office Director, Office of Superfund Remediation and Technology Innovation.

For reasons set out in the preamble, the EPA amends 40 CFR part 300 as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.;* 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. In appendix B to part 300 amend Table 1 by:

■ a. Revising the entries for ''AL, T.H. Agriculture & Nutrition (Montgomery), Montgomery''; ''CO, Eagle Mine, Minturn/Redcliff'';

■ b. Removing the entries for ''IN, Bennett Stone Quarry, Bloomington''; ''IN, Lemon Lane Landfill, Bloomington''; ''IN, Neal's Landfill (Bloomington), Bloomington''; ''KY, Airco, Calvert City''; ''MI, Barrels, Inc., Lansing''; ''MN, Arrowhead Refinery Co., Hermantown'';

■ c. Revising the entries for ''MO, Missouri Electric Works, Cape Girardeau''; ''MO, Riverfront, New Haven''; ''MS, Chemfax, Inc., Gulfport''; ''NC, Kerr-McGee Chemical Corp-Navassa, Navassa'';

■ d. Removing the entries for ''NJ, Reich Farms, Pleasant Plains''; ''OH, United Scrap Lead Co., Inc., Troy'';

■ e. Revising the entry for ''OR, North Ridge Estates, Klamath Falls'';

■ f. Removing the entry for ''PA, Butler Mine Tunnel, Pittston''; and

■ g. Revising the entry for ''SC, US Finishing/Cone Mills, Greenville''.

The revisions read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
AL	T.H. Agriculture & Nutrition (Montgomery)	Montgomery	P
*	* * * *	*	*
CO	Eagle Mine	Minturn/Redcliff	P
*	* * * *	*	*
MO	Missouri Electric Works	Cape Girardeau	P
*	* * * *	*	*
MO	Riverfront	New Haven	P
*	* * * *	*	*
MS	Chemfax, Inc	Gulfport	P

TABLE 1—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county	Notes (a)
*	* * * *	*	*
NC	Kerr-McGee Chemical Corp-Navassa	Navassa	P
*	* * * *	*	*
OR	North Ridge Estates	Klamath Falls	P
*	* * * *	*	*
SC	US Finishing/Cone Mills	Greenville	P
*	* * * *	*	*

*P = Sites with partial deletion(s).

[FR Doc. 2021–19448 Filed 9–13–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[CG Docket No. 05–231; FCC 16–17; FRS 41603]

Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing Inc. Petition for Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document corrects the final rules portion of a **Federal Register** document published on August 23, 2016. That **Federal Register** document inadvertently removed existing rules requiring video programming distributors to exercise best efforts to obtain certifications of compliance from video programmers and requiring video programmers adopting Best Practices to certify to video programming distributors regarding adherence to Best Practices and to make those certifications widely available. That **Federal Register** document also prematurely amended rules to require video programmer registration and certification of compliance.

DATES:

Effective date: Effective on September 14, 2021.

Compliance date: The compliance date of section § 79.1(m) is stayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the new compliance date.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Scott, Consumer and Governmental Affairs Bureau, (202) 418–1264, or email: *Michael.Scott@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document corrects the final rules document published at 81 FR 57473, August 23, 2016.

List of Subjects in 47 CFR Part 79

Cable television operators, Communications equipment, Multichannel video programming distributors (MVPDs), Satellite television service providers.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Final Rules

Accordingly, 47 CFR part 79 is corrected by making the following correcting amendments:

PART 79—CLOSED CAPTIONING AND VIDEO DESCRIPTION OF VIDEO PROGRAMMING

■ 1. The authority citation for part 79 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 554a, 613, 617.

■ 2. Amend § 79.1 by

■ a. Revising paragraph (i)(3);

■ b. Adding paragraph (j)(1);

■ c. Revising paragraphs (k)(1)(iv) and (m)(1) introductory text; and

■ d. Adding paragraph (m)(5).

The additions and revisions read as follows:

§ 79.1 Closed captioning of televised video programming.

* * * * *

(i) * * *

(3) *Providing contact information to the Commission.* (i) Prior to the compliance date of paragraph (m) of this section, video programming distributors shall file the contact information described in this section with the Commission in one of the following ways: through a web form located on the FCC website; with the Chief of the Disability Rights Office, Consumer and Governmental Affairs Bureau; or by sending an email to *CLOSEDCAPTIONING_POC@fcc.gov.* Contact information shall be available to consumers on the FCC website or by telephone inquiry to the Commission's Consumer Center. Distributors shall notify the Commission each time there is a change in any of this required information within 10 business days.

(ii) As of the compliance date of paragraph (m) of this section, video programming distributors and video programmers shall file contact information with the Commission through a web form located on the Commission's website. Such contact information shall include the name of a person with primary responsibility for captioning issues and ensuring compliance with the Commission's rules. In addition, such contact information shall include the person's title or office, telephone number, fax number (if the video programming distributor or video programmer has a fax number), postal mailing address, and email address. Contact information shall be available to consumers on the Commission's website or by telephone inquiry to the Commission's Consumer Center. Video programming distributors and video programmers shall notify the Commission each time there is a change in any of this required information within ten (10) business days.

(j) * * *

(1)(i) Prior to the compliance date of paragraph (m) of this section, a video programming distributor shall exercise best efforts to obtain a certification from each video programmer from which the distributor obtains programming stating:

(A) Tat the video programmer's programming satisfies the caption quality standards of paragraph (j)(2) of this section;

(B) That in the ordinary course of business, the video programmer has

adopted and follows the Best Practices set forth in paragraph (k)(1) of this section; or

(C) That the video programmer is exempt from the closed captioning rules under one or more properly attained exemptions.

(ii) For programmers certifying exemption from the closed captioning rules, the video programming distributor must obtain a certification from the programmer that specifies the exact exemption that the programmer is claiming. Video programming distributors may satisfy their best efforts obligation by locating a programmer's certification on the programmer's website or other widely available locations used for the purpose of posting widely available certifications. If a video programming distributor is unable to locate such certification on the programmer's website or other widely available location used for the purpose of posting such certification, the video programming distributor must inform the video programmer in writing that it must make widely available such certification within 30 days after receiving the written request. If a video programmer does not make such certification widely available within 30 days after receiving a written request, the video programming distributor shall promptly submit a report to the Commission identifying such non-certifying video programmer for the purpose of being placed in a publicly available database. A video programming distributor that meets each of the requirements of this paragraph shall not be liable for violations of paragraphs (j)(2) and (3) of this section to the extent that any such violations are outside the control of the video programming distributor. Compliance with this paragraph (j)(1) shall not be required as of the compliance date of paragraph (m) of this section. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising this paragraph accordingly.

* * * * *

(k) * * * (1) * * *

(iv) *Certification procedures for video programmers.* Video programmers adopting Best Practices will take one of the following actions to certify that they adhere to Best Practices for video programmers.

(A) Prior to the compliance date of paragraph (m) of this section, video programmers adopting Best Practices will certify to video programming distributors that they adhere to Best Practices for video programmers and will make such certifications widely available to video programming distributors, for example, by posting on affiliate websites.

(B) As of the compliance date of paragraph (m) of this section, video programmers adopting Best Practices will certify to the Commission that they adhere to Best Practices for video programmers, in accordance with paragraph (m) of this section.

* * * * *

(m) * * *

(1) On or before the compliance date, or prior to the first time a video programmer that has not previously provided video programming shown on television provides video programming for television for the first time, whichever is later, and on or before July 1 of each year thereafter, each video programmer shall submit a certification to the Commission through a web form located on the Commission's website stating that:

* * * * *

(5) Compliance with paragraphs (m)(1) through (4) of this section is not required until the Commission publishes a document in the **Federal Register** announcing the compliance date and revising this paragraph accordingly.

* * * * *

[FR Doc. 2021–16870 Filed 9–13–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210907–0179]

RIN 0648–BH72

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Electronic Reporting for Federally Permitted Charter Vessels and Headboats in Gulf of Mexico Fisheries

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

ACTION: Final rule; effective date.

SUMMARY: NMFS announces the effective date for previously approved vessel location tracking requirements applicable to an owner or operator of charter vessel or headboat for which NMFS has issued a valid Federal charter vessel/headboat permit for federally managed reef fish or coastal migratory pelagic (CMP) species in the Gulf of Mexico (Gulf). The purpose of this final rule is to announce the effective date for vessel location tracking requirements for reef fish and CMP in the Gulf that NMFS previously delayed indefinitely on July 21, 2020.

DATES: The effective date for amendments to §§ 622.26(b)(5) and 622.374(b)(5)(ii) through (v), published July 21, 2020 (85 FR 44005), is December 13, 2021.

ADDRESSES: Electronic copies of the Gulf For-hire Reporting Amendment may be obtained from *www.regulations.gov* or the Southeast Regional Office website at *https://www.fisheries.noaa.gov/southeast/et.*

The Gulf For-hire Reporting Amendment includes an environmental assessment, regulatory impact review, Regulatory Flexibility Act analysis, and fishery impact statement.

The final rule that published on July 21, 2020 (85 FR 44005), and other related rulemaking documents, may be obtained from *www.regulations.gov,* by searching ''RIN 0648–BH72.''

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted at any time by email to Adam Bailey, NMFS Southeast Regional Office, *adam.bailey@noaa.gov,* or to *www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *rich.malinowski@noaa.gov.*

SUPPLEMENTARY INFORMATION: This final rule is based on the Gulf For-hire Reporting Amendment, which includes amendments to the Fishery Management Plans (FMPs) for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) and the Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and Atlantic Region (CMP FMP). The CMP fishery in the Gulf is managed under the CMP FMP, an FMP jointly developed by the Gulf of Mexico Fishery Management Council (Gulf Council) and the South Atlantic Fishery Management Council (South Atlantic Council). The Gulf reef fish fishery is managed under the Reef Fish FMP, which is developed by the Gulf Council. These FMPs are implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On July 21, 2020, NMFS published the final rule to implement the Gulf For-hire Reporting Amendment (85 FR 44005). That final rule summarized the management measures described in the Gulf For-hire Reporting Amendment

and implemented by NMFS. However, the July 21, 2020, final rule delayed indefinitely the effectiveness of vessel location tracking requirements in 50 CFR 622.26(b)(5) and 622.374(b)(5)(ii) through (v). That final rule stated that NMFS would announce the effective date for those provisions in a subsequent document published in the **Federal Register**.

NMFS delayed the location tracking requirements that apply to a charter vessel or headboat (for-hire vessel) in the Gulf reef fish and Gulf CMP fisheries to allow more time to evaluate and approve hardware and software for use in the Gulf for-hire reporting program. The NMFS Southeast Regional Office posts all approved vessel location tracking hardware and software for the Gulf for-hire reporting program, including vessel monitoring system (VMS) units approved by the NMFS Office of Law Enforcement (OLE), on the website for the Gulf for-hire reporting program, *https://www.fisheries.noaa.gov/southeast/et.*

This final rule announces the effective date for requirements applicable to an owner or operator of a vessel with a Federal charter vessel/headboat permit for Gulf reef fish or Gulf CMP species (hereafter referred to as a Gulf for-hire vessel owner or operator). On and after December 13, 2021, a Gulf for-hire vessel owner or operator must comply with vessel location tracking requirements in 50 CFR 622.26(b)(5) and 622.374(b)(5)(ii) through (v). NMFS expects that the time between the publication date and effective date of this final rule (see **DATES** section) will allow affected fishery participants to purchase and install approved hardware and software. NMFS also reminds Gulf for-hire vessel owners and operators that they must comply with all of the other requirements of the Gulf for-hire reporting program that are currently in effect.

Upon the effective date in this final rule, a Gulf for-hire vessel must have NMFS-approved hardware and software on board with global positioning system (GPS) location capabilities that, at a minimum, archive vessel position data during a trip for subsequent transmission to NMFS. The vessel location-tracking device must collect a vessel's position at least hourly, unless the in-port 4-hour position reporting exemption is met, as specified in 50 CFR 622.26(b)(5)(ii)(C) and 622.374(b)(5)(iv)(C).

The vessel location tracking data can be transmitted through a cellular or satellite-based service via a VMS unit. Cellular-based systems collect and store data while a vessel is not within range of a cellular signal, *e.g.,* during the majority of fishing trips in Federal waters, and then transmit the data when the vessel is within cellular range. While a vessel is within cellular range, *e.g.,* nearshore or at the dock, data transmission will be closer to real-time. Satellite-based systems transmit data as they are collected.

Each Gulf for-hire vessel owner or operator is responsible for using an approved cellular or satellite VMS that will automatically transmit vessel location data at some time before offloading fish at the end of each trip, or within 30 minutes after a trip is completed if no fish were landed. The vessel's cellular or satellite VMS must be permanently affixed to the vessel and must have uninterrupted power, unless the owner or operator applies for and is granted an exemption to power-down the unit, as specified in 50 CFR 622.26(b)(5)(ii)(D) and 622.374(b)(5)(iv)(D), *e.g.,* if the vessel is removed from the water for repairs.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Gulf For-hire Reporting Amendment, the respective FMPs, other provisions of the Magnuson-Stevens Act, and other applicable laws.

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

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this preamble.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because NMFS already provided prior notice and an opportunity for public comment for the vessel monitoring requirements in the July 21, 2020, final rule. This final rule does not change any provision of the July 21, 2020, final rule but only announces the effective date for the previously delayed requirements (see **DATES** section). Such procedures would also be contrary to the public interest because NMFS has already implemented the majority of the management measures in the Gulf For-Hire Reporting Amendment and the vessel location tracking requirements will allow NMFS to better validate the accuracy of data that are currently being submitted through the required fishing reports. NMFS expects more accurate and reliable data to improve management of the Gulf for-hire component as well as management of the Gulf reef fish and CMP fisheries generally.

This final rule contains collection-of-information requirements approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This final rule does not change the existing requirements for the collection of information under OMB Control Number 0648–0016. The public reporting burden for the Southeast Region Logbook Family of Forms, specifically for a trip declaration, is estimated to average 2 minutes to complete and 10 minutes per fishing report. NMFS estimates a VMS power-down exemption request will require an average of 5 minutes to complete per occurrence. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NMFS invites the public and other Federal agencies to comment on any proposed and continuing information collections, which helps NMFS assess the impact of information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collection should be submitted on the following website: *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by using the search function and entering the title of the collection or the OMB Control Number 0648–0016.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 622

Atlantic, Charter vessel, Coastal migratory pelagic resources, Fisheries, Fishing, Gulf of Mexico, Headboat, Recordkeeping and reporting, Reef fish, South Atlantic, Vessel monitoring systems.

Dated: September 7, 2021.

Samuel D. Rauch, III,

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

[FR Doc. 2021–19622 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XB400]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS is transferring 113.8 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the General category. This action is intended to account for an accrued overharvest of 53.8 mt from previous time-period subquotas and to provide further opportunities for General category fishermen to participate in the September General category fishery, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action would affect Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: Effective September 9, 2021 through September 30, 2021.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., 301–427–8503, Nicholas Velseboer, 978–281–9260, or Lauren Latchford, 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

The current baseline General and Reserve category quotas are 555.7 mt and 29.5 mt, respectively. The General category baseline subquota for the September time-period is 147.3 mt. Any unused General category quota rolls forward from one time-period to the next and is available for use in subsequent time-periods. To date for 2021, NMFS has published three actions that resulted in adjustments to the General and Reserve category quotas. The current adjusted quotas are 138 mt for the Reserve category, 75 mt for the General category January through March 2021 subquota period, and 9.4 mt for the December 2021 subquota period (85 FR 83832, December 23, 2020; 86 FR 8717, February 9, 2021; 86 FR 43420, August 9, 2021).

Transfer of 113.8 mt From the Reserve Category to the General Category

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories after considering determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years) and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). Preliminary landings data as of September 8, 2021, indicate that the General category landed a cumulative total of 406.7 mt through August 31, which exceeds the cumulative adjusted quota available through August 31, *i.e.,* 352.9 mt. Preliminary September landings as of September 8, 2021, are 74.5 mt, which represent 51 percent of the baseline September subquota (147.3 mt). As of September 8, 2021, the General category September time-period subquota has not yet been exceeded, but without a quota transfer at this time, NMFS would likely close the General category fishery shortly, and participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where General category permitted vessels operate at this time of year. Transferring 113.8 mt of quota from the Reserve category would account for 53.8 mt of accrued overharvest from the prior time-periods and result in an additional 60 mt being available for the September 2021 subquota time-period, thus effectively providing limited additional opportunities to harvest the U.S. BFT quota while avoiding exceeding it. NMFS also took into consideration a recently published final rule that would set restricted-fishing days for the General category during the months of September through November 2021 (86 FR 43421, August 9, 2021). That rule would further increase the likelihood that the fishery would remain open throughout the subperiod and year.

Regarding the projected ability of the vessels fishing under the General category quota to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors, such as the restrictions that some dealers placed on their purchases of BFT from General category participants this year. A portion of the transferred quota covers the 53.8 mt overharvest in the category to date, and NMFS anticipates that General category participants will be able to harvest the remaining 60 mt of transferred BFT quota by the end of the subquota time-period. In the unlikely event that any of this quota is unused by September 30, such quota will roll forward to the next subperiod within the calendar year (*i.e.,* to the October through November period), and NMFS anticipates that it would be used before the end of the fishing year. NMFS also anticipates that some underharvest of the 2020 adjusted U.S. BFT quota will be carried forward

to 2021 and placed in the Reserve category, in accordance with the regulations. Thus, this quota transfer would allow fishermen to take advantage of the availability of fish on the fishing grounds and provide a reasonable opportunity to harvest the available U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the BFT fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2021 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS will need to account for 2021 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This transfer would be consistent with established quotas and subquotas, which are implemented consistent with ICCAT recommendations (established in Recommendation 17–06 and maintained in Recommendation 20–06), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This quota transfer is in line with the established management measures and stock status determinations. Another principal consideration is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota, based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)). Specific to the General category, this includes providing opportunities equitably across all time-periods.

Given these considerations, NMFS is transferring 113.8 mt of the available 138 mt of Reserve category quota to the General category. Of this amount, 53.8 mt accounts for preliminary overharvest of the January through March and June through August time-period subquotas, and 60 mt is added to the September subquota. Therefore, NMFS adjusts the General category September 2021 subquota to 207.3 mt after accounting for the 53.8 mt of overharvest through for the prior 2021 time-periods and adjusts the Reserve category quota to 24.2 mt. The General category fishery will remain open until September 30, 2021, or until the adjusted General category quota is reached, whichever comes first.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General category and HMS Charter/Headboat vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the HMS Catch Reporting app or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments (*e.g.,* quota adjustment, daily retention limit adjustment, or closure) are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken pursuant to 50 CFR part 635, which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and its amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement the quota transfer for the September 2021 time-period is contrary to the public interest as such a delay would likely result in closure of the General category fishery when the baseline subquota for the September time-period is met and the need to re-open the fishery, with attendant costs to the fishery, including administrative costs and lost fishing opportunities. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. This action does not raise conservation and management concerns. Transferring quota from the Reserve category to the General category does not affect the overall U.S. BFT quota, and the adjustment would have a minimal risk of exceeding the ICCAT-allocated quota. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 9, 2021.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–19777 Filed 9–9–21; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XA696]

Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 21 to the Pacific Coast Salmon Fishery Management Plan

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces the approval of Amendment 21 to the Pacific Fishery Management Council's (Council) Pacific Coast Salmon Fishery Management Plan (FMP). Amendment 21 establishes an annual Chinook salmon abundance threshold below which the Council and NMFS will implement specific management measures, through the annual ocean salmon management measures, to limit ocean salmon fishery impacts on the availability of Chinook salmon as prey for the Southern Resident killer whale (SRKW) distinct population segment (DPS) of *Orcinus orca,* which is classified as endangered under the Endangered Species Act (ESA).

DATES: The amendment was approved on August 31, 2021.

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

FOR FURTHER INFORMATION CONTACT: Jeromy Jording at 360–763–2268, email at *jeromy.jording@noaa.gov.*

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

The Notice of Availability (NOA) for Amendment 21 was published in the **Federal Register** on June 2, 2021 (86 FR 29544), with a 60-day comment period that ended on August 2, 2021. In the NOA, NMFS also announced that a draft EA analyzing the environmental impacts of the actions implemented under Amendment 21 was available for public review and comment. NMFS received nearly forty thousand comments during the public comment period on the NOA. The comments included 39,432 comments that reiterated 6 scripts verbatim, and 448 unique comments from individuals and organizations. The majority of comments received were supportive of Amendment 21; however, some comments raised issues with the amendment. NMFS' authority for this action is limited by the MSA to approval, disapproval, or partial approval of the amendment submitted by the Council. NMFS is not disapproving Amendment 21 in response to the comments received. NMFS summarized and responded to these comments in the final EA, and under Comments and Responses, below.

NMFS completed a biological opinion under section 7 of the ESA on the implementation of the FMP, including Amendment 21, and determined this action was not likely to jeopardize the continued existence of the SRKW distinct population segment or destroy or adversely modify its designated or proposed critical habitat (NMFS Consultation Number: WCRO–2019–04074; biological opinion signed April 21, 2021).

NMFS determined that Amendment 21 is consistent with the MSA and other applicable laws, and the Secretary of Commerce approved Amendment 21 on August 31, 2021. The June 2, 2021, NOA contains additional information on this action. Amendment 21 will be implemented through the annual salmon management measures; no changes to existing Federal regulations are necessary.

Amendment 21 was developed by the Council to address impacts of the salmon fisheries managed under the FMP on Chinook salmon as prey for endangered SRKW. Amendment 21 establishes an annual Chinook salmon abundance threshold below which the Council and NMFS will implement specific management measures to limit ocean salmon fishery impacts on the availability of Chinook salmon as prey for SRKW. The development of Amendment 21 was informed by the risk assessment prepared by the Council's ad hoc SRKW Workgroup (Workgroup).[1] The risk assessment affirmed Chinook salmon as the primary prey of SRKW based on a review of the scientific literature. The risk assessment assessed the potential overlap between SRKW and ocean salmon fisheries and the effects of these fisheries on SRKW. Chinook salmon, as well as coho salmon, are targeted in ocean salmon fisheries managed under the FMP. The Council adopted Amendment 21 at its November 2020 meeting. Amendment 21 was transmitted to NMFS by the Council on May 25, 2021. A detailed description of Amendment 21 is included in the NOA (86 FR 29544, June 2, 2021).

Comments and Responses

NMFS received 39,880 comments during the 60-day public comment period on the NOA and the draft EA. The comments included 39,432 comments that reiterated 6 scripts verbatim (*i.e.,* form responses), and 448 unique comments from individuals and organizations, during the 60-day public comment period. The majority of comments, 99.8 percent, were in support of Amendment 21 (39,432 of the form responses and 366 of the individual responses). To address the volume of comments, NMFS identified each unique theme raised in the comments that were not simply supportive of Amendment 21. NMFS's responses to these themes are presented below.

Theme 1: General support of Amendment 21. Of the 448 individual responses NMFS counted, 366 responses were received in support of the amendment. The 39,432 form responses were also in support of the amendment.

Response: Thank you for your comment, your support for the amendment is noted and your participation in the public process is appreciated.

Theme 2: General opposition of the amendment or requested changes to the amendment. Eighty two individual comments were received that were in opposition of the amendment, with rationale for their opposition in the general themes listed in the comments below.

NMFS' response: Thank you for your comment, your opposition to the amendment is noted and your participation in the public process is appreciated. Responses to points made in your comments are addressed below.

Theme 3: Alter hatchery production. Seventeen commenters requested Amendment 21 alter hatchery production to address prey availability for SRKW before altering fishery management.

Response: The Council has no jurisdiction to alter hatchery production of salmon stocks, and NMFS's decision under Section 304 of the MSA is whether to approve, disapprove or partially approve Amendment 21. Therefore, altering hatchery production is outside the scope of this action. However, hatchery production levels affect the overall abundance of Chinook

[1] The SRKW Workgroup's risk assessment report can be found on the Council's website: *https://www.pcouncil.org/documents/2020/05/e-2-srkw-workgroup-report-1-pacific-fishery-management-council-salmon-fishery-management-plan-impacts-to-southern-resident-killer-whales-risk-assessment-electronic-only.pdf/.*

salmon in the area north of Cape Falcon, OR, and could therefore affect the frequency at which abundance would fall below the low-abundance threshold included in Amendment 21 and additional management actions would be required. Hatchery production was included in the range of abundances evaluated by the Workgroup's risk assessment that informed framework of Amendment 21. We considered varying levels of abundances of salmon for different thresholds that would trigger fishery management restrictions in our analysis. These different levels could result from either increased hatchery releases or from natural production increases, or combinations of the two; therefore, our analysis takes into account salmon abundance changes regardless of source. Should hatchery production initiatives increase salmon abundance in the Council area, because the conservation objectives used to manage the ocean salmon fishery are mostly based on impacts to wild fish, additional hatchery fish would likely be disproportionately available as prey for SRKW.

Theme 4: Address tribal fisheries. Forty-nine individual commenters requested addressing tribal fisheries equally as non-tribal fisheries in Amendment 21's requirements.

Response: Under Section 304 of the MSA, NMFS approves, disapproves or partially approves the FMP amendment recommended by the Council. Requiring additional measures from tribal fisheries is therefore outside the scope of this action. The Council, which includes representatives of the affected states and of the treaty tribes, did not recommend an alternative that would have required limits on tribal fisheries beyond those already required to avoid exceeding conservation objectives for salmon stocks. NMFS concluded in its biological opinion that the fisheries implemented with the Council's recommended amendment are not likely to jeopardize SRKW. We have further concluded that Amendment 21 is consistent with the MSA and other applicable laws, including the ESA and treaty rights. Further, the fact that the Council did not recommend imposing limits on tribal fishing does not create an inconsistency with the MSA or other applicable laws.

Theme 5: Address dams. Eighteen individual commenters requested addressing dams simultaneously in Amendment 21.

Response: The Council has no jurisdiction over the operation of dams in the United States, and under Section 304 of the MSA, NMFS' action, with respect to the Council's recommendation of Amendment 21, is approval, disapproval, or partial approval. Therefore addressing the effects of dams on SRKW is outside the scope of this action. We sought, to the degree possible, to compare alternatives by quantifying their relative effects across varying degrees of abundance of salmon stocks. Therefore, to the degree that freshwater dam operations would alter the level of salmon abundance, we have captured that impact in the analysis.

Theme 6: Address salmon predation by pinnipeds (*i.e.,* seals and sea lions). Sixteen individual commenters requested managing seals or sea lions via Amendment 21 instead of taking action to limit the impacts of the fisheries on SRKW.

Response: The Council has no authority nor responsibility for managing pinnipeds in the United States, and under Section 304 of the MSA, NMFS' action, with respect to the Council's recommendation of Amendment 21, is approval, disapproval or partial approval. Therefore, it is beyond the scope of this action to address the impacts of pinniped predation on salmon populations. Our analysis determined that pinniped populations that may interact with ocean salmon fisheries are at stable and historically high levels.

Theme 7: Address salmon interception in Canadian, Alaskan, and inland fisheries, or interception in other sectors of the West Coast salmon fisheries. Thirty-three individual commenters requested that NMFS address the interception of salmon in other fisheries or sectors via Amendment 21. Additionally, several of the letter comments brought up a similar theme that the EA was not addressing prior fishery interceptions.

Response: Under Section 304 of the MSA, NMFS' action with respect to the Council's recommendation of Amendment 21 is approval, disapproval or partial approval. Thus, it is not within the scope of this action to address fisheries managed under other Council FMPs. Also, as the Council does not have jurisdiction outside the EEZ off the coasts of the states of Washington, Oregon, and California, it would not be appropriate for the Council to recommend management measures to NMFS for salmon fisheries in other areas for implementation under the MSA. Finally, it is not within the scope of this action for NMFS to change the Council's recommended approach regarding different sectors of the ocean salmon fishery. We have accounted for the interception of salmon stocks in fisheries outside the Council's geographic areas of jurisdiction in evaluating the proposed action and alternatives. We recognize in the EA (page 5) that salmon fisheries in the Council area affect salmon abundances in other areas, including shoreward of the EEZ. With respect to interactions that occur before salmon reach the area under the jurisdiction of the Council, we note that salmon fisheries are managed consistent with the Pacific Salmon Treaty Agreement. The Council takes projected catch in fisheries in Canada and Alaska into account when designing its annual fishery recommendations, and that projected catch is factored into the estimation of Chinook salmon abundance that would be used to implement Amendment 21. The conservation objectives that the Council uses to manage fishery impacts to salmon stocks are in many cases overall exploitation rates that include catch in most or all of the fisheries that catch those stocks including those of interest to the commenters. The management for inside fisheries, including in fresh water and Puget Sound, similarly takes into account catch in the ocean. In the preseason planning process for the salmon fisheries, scientists from Federal, state, and tribal governments collectively analyze available data on salmon stocks using peer-reviewed models to forecast stock abundance and the impacts of various fisheries scenarios on those forecast abundances. Post-season analyses are used to evaluate the effectiveness of salmon fisheries management in meeting the adopted goals. The models used for these analyses are routinely evaluated and updated.

We disagree with comments that there is no explanation or guide to explain to the reader how information was modeled in the EA to address the effects of these other fisheries. We offer this clarifying response by pointing out the multiple elements of the EA. We point to Section 4.1.2, Fish & Fisheries, where we explain how we included the suite of all fisheries restrictions that occur along the West Coast that might affect the SRKW in order to isolate the effects of implementing the proposed action from the effects of other fisheries that affect salmon abundance in the EEZ. We explain in the EA (page 59) that the catch that occurred in the past, notably in the 1990s, occurred under fishery management regimes that were not as restrictive as of those today, now that additional ESA restrictions for salmon stocks are in place. We describe the newly negotiated Pacific Salmon Treaty Agreement, which places further

restrictions on fisheries from those that occurred in the past. Under Section 304 of the MSA, NMFS' action with respect to the Council's recommendation is approval, disapproval or partial approval, but we still account in our analysis for the removal of all fish in areas regulated in other management forums that would otherwise reach the EEZ. In fact, the Council's Workgroup report and methodology, which we explain in the EA at Appendix A (Description of modeling methods and results), very specifically stated that ''[f]or fisheries from Southeast Alaska (SEAK) to Cape Falcon, Oregon, we modified the postseason fishery data in an effort to ensure compliance with some of the key contemporary conservation requirements that currently drive fishery planning.'' More simply put, this means we set harvest levels in Alaska, Canada, and Puget Sound fisheries at levels consistent with the regulatory framework in place in 2020, and ran coast-wide abundance estimates from years prior to 2020 through these contemporary fisheries. This gave us an estimate of the remaining abundance in the area under the jurisdiction of the Council, to which Amendment 21 would be applied.

Theme 8: Evaluate a higher threshold or add in additional alternatives in the EA. Multiple letters commented that evaluating either higher thresholds, or a no fishing alternative, would have been more informative.

Response: Thank you for your comments. We have updated the EA incorporating a ''no fishing scenario'' alternative incorporating the analysis the Workgroup had already performed in order to examine the impacts to the environment of a no fishing scenario.

Therefore, by incorporating an alternative that completely closes Council-area salmon fisheries, including a threshold higher than those in the range of alternatives analyzed in the EA is unnecessary. Alternative 4 captures the maximum amount of prey that could be available to SRKW in the absence of fisheries. Comments requesting evaluating higher thresholds were focused on assuming that a particular threshold level of Chinook salmon abundance would promote sustained growth of SRKW. The results of evaluating Alternative 4, based on the available data, indicate a complete closure of ocean salmon fisheries within the EEZ would not significantly benefit SRKW.

The preferred alternative was developed through the Council process, and the action before NMFS is to approve, disapprove, or partially approve Amendment 21. NMFS does not have the authority to substitute one threshold for another, and has now evaluated multiple levels of abundance that would act as threshold for SRKW as prey to determine if there is a specific level that provides a significant benefit to the whales. Our analysis, consistent with that of the Workgroup, could find no significant quantifiable benefit, even when Council-area salmon fisheries were completely closed. The preferred alternative, analyzed under the ESA, and concluded the action was not likely to jeopardize the continued existence of SRKW or adversely modify their critical habitat, provides more benefit to SRKW than continuation of the No Action alternative, and therefore, NMFS approved the Amendment.

Theme 9: Require additional management measures as part of the responses required [*e.g.,* multiple letters commented vessel-monitoring systems (VMS) should have been required].

Response: Under Section 304 of the MSA, NMFS' action, with respect to the Council's recommendation, is approval, disapproval or partial approval of Amendment 21. Additional management measures are therefore outside the scope of this action. The commenters have not identified any inconsistency of Amendment 21 to the MSA and other applicable law resulting from the lack of a VMS requirement or other specific measures suggested.

Theme 10: Amendment 21 will not recover SRKW.

Response: Under Section 304 of the MSA, NMFS' action is to approve, disapprove, or partially approve Amendment 21. Recovery of SRKW, such that listing under the ESA is no longer required, will take actions, in addition to those proposed under Amendment 21, that are outside the scope of this action. NMFS' final recovery plan for SRKW (which we provide a link for in the EA at page 74) reviews and assesses the potential factors affecting their survival and recovery, and lays out a recovery program to address each of the threats (reduced prey availability and quality, high levels of contaminants from pollution, and disturbances from vessels and sound). The recovery plan also emphasizes that these threats act synergistically, and that addressing one factor on its own will not recover the species. ESA recovery plans provide important context for NMFS' determinations pursuant to section 7(a)(2) of the ESA including assessment of the management framework under Amendment 21. NMFS issued a biological opinion analyzing the effects of salmon fisheries managed under the FMP, including Amendment 21, and concluded such action was not likely to jeopardize the continued existence of SRKW or adversely modify their critical habitat. The goal of Amendment 21 is to help ensure that Council's harvest management is responsive to the status of SRKWs and supports recovery. The Council's ocean salmon fisheries are required to be consistent with the conservation and management objectives of the FMP, the MSA, and the ESA.

NMFS is committed to working with the Council, states, tribes and our other partners to take actions to improve conditions for the whales, and we recognize the fisheries are only one activity that has contributed to the current SRKW condition, and only one source of potential risk. Federal funding associated with the 2019 Pacific Salmon Treaty Agreement is currently being used to produce additional hatchery fish to increase prey availability for SRKW, and to improve the status of Puget Sound Chinook salmon populations through habitat restoration and conservation hatchery production, which is expected to further increase prey availability. As noted above, the 2019 Pacific Salmon Treaty Agreement itself includes reductions to fisheries. In addition we are working closely with state and local partners to improve water quality in SRKW habitat, and reduce vessel disturbance and interference with foraging so that the existing Chinook salmon are more accessible to the whales. Working with a variety of partners, we are implementing actions identified in our review of the existing vessel regulations to improve compliance with regulations and guidelines to improve habitat conditions for the whales. NMFS recently designated critical habitat for SRKW along coastal waters of Washington, Oregon, and California (86 FR 41668, August 2, 2021), and additionally we are implementing actions recommended through the Governor of Washington's SRKW Task Force process. For more information about SRKW conservation and recovery actions underway, please refer to NMFS' West Coast Region website: *https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/southern-resident-killer-whale-orcinus-orca.*

Theme 11: NMFS failed to directly respond to public comments during this process. Several letters commented that written comments submitted by organizations throughout the process did not receive written responses.

Response: NMFS is responding to public comments on proposed Amendment 21 and the draft EA,

consistent with legal requirements. Until this point, the process that has occurred has been through the Council and is governed by the MSA. Both the Workgroup and Council meetings were open to the public and public participation was encouraged. Each Workgroup meeting and Council meeting were noticed in the **Federal Register** at least 23 calendar days prior so the public was informed and able to attend. The Council heard input from members of the public at all stages of the Council's development and consideration of Amendment 21, and the Council considered the publics' input in making its decision to recommend Amendment 21 to NMFS.

Theme 12: NMFS failed to prepare an Environmental Impact Statement (EIS) instead of an EA. Several letters commented that NMFS should instead have performed an EIS.

Response: NMFS determined that preparing an EA here was the appropriate level of analysis. NMFS did not receive any comments that indicate the methodology utilized for assessing the effects of the fisheries from the alternatives considered in the EA is inadequate, was not based on the best available scientific information, or otherwise flawed. The comments also did not reveal new information that had not been considered by the Workgroup, the Council, or NMFS in their analysis or decision making or identify any significant effects of the proposed action. NMFS used this methodology to evaluate the effects of the alternatives, including proposed Amendment 21, on the environment including SRKW, and concluded there are no significant impacts to the environment from the preferred alternative.

Theme 13: NMFS should alter critical habitat or designate Marine Protected Areas through the proposed action (*e.g.,* designate critical habitat in Hood Canal and should ''enforce '' critical habitat).

Response: Under Section 304 of the MSA, NMFS' decision is to approve, disapprove, or partially approve Amendment 21. Therefore, alterations to critical habitat or Marine Protected Areas are outside the scope of the action.

Theme 14: Address or construct management measures that include climate change considerations (*e.g.,* multiple letters commented on recommending risk-averse Chinook salmon management procedures in the context of rising environmental stresses on Chinook salmon populations due to effects from climate change).

Response: Basing the proposed action's triggered response on an aggregate abundance threshold of Chinook salmon is inherently responsive to climate change, as this approach anticipatorily incorporates any effect that climate change may have on Chinook salmon abundances.

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

Dated: September 8, 2021.

Jennifer M. Wallace,

Acting Director of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–19783 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 86, No. 175

Tuesday, September 14, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0283; Project Identifier 2018–SW–045–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier proposal for certain Leonardo S.p.a. Model AB139 and AW139 helicopters. This action revises the notice of proposed rulemaking (NPRM) by expanding the required actions. This proposed AD would require various inspections of certain main rotor (MR) dampers, as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also require reducing the torque of the MR damper hub attachment bolts, installing a special washer, installing a certain part-numbered MR damper, and prohibit installing other part-numbered MR dampers. The FAA is proposing this airworthiness directive (AD) to address the unsafe condition on these products. Since these actions would impose an additional burden over those in the NPRM, the FAA is requesting comments on this SNPRM.

DATES: The comment period for the NPRM published in the **Federal Register** on March 31, 2020 (85 FR 17788), is reopened.

The FAA must receive comments on this SNPRM by October 29, 2021.

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

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

For material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283; 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 SNPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2020–0283; Project Identifier 2018–SW–045–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this SNPRM 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 SNPRM, 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 SNPRM. Submissions containing CBI should be sent to Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@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.

Background

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Leonardo S.p.A. Model AB139 and AW139 helicopters with an MR damper part number (P/N) 3G6220V01351, 3G6220V01352, or 3G6220V01353

installed. The NPRM published in the **Federal Register** on March 31, 2020 (85 FR 17788). In the NPRM, the FAA proposed to require, for an affected helicopter with MR damper P/N 3G6220V01351, 3G6220V01352, or 3G6220V01353 installed, reducing the installation torque of each hub attachment bolt for each MR damper. For an affected helicopter with MR damper P/N 3G6220V01351 or 3G6220V01352 installed, the NPRM proposed to require: Repetitively inspecting the MR damper rod end (rod end) and MR damper body end (body end) for a crack; dye penetrant inspecting or eddy current inspecting certain rod and body ends for a crack; repetitively inspecting the rod and body end bearings for rotation in the damper seat and for misaligned slippage marks; repetitively inspecting the rod end broached ring nut; and repetitively inspecting the bearing friction torque value of the body and rod ends, and the MR damper anti-rotation block. Depending on the results of the various inspections, the NPRM proposed to require removing a part from service or replacing a part. For an affected helicopter with MR damper P/N 3G6220V01351 or 3G6220V01352 installed, the NPRM also proposed to require inspecting each rod end to determine if special washer P/N 3G6220A05052 is installed, and depending on the results, aligning the rod ends and broached rings, replacing any broached ring that cannot be aligned, inspecting the broached rings for wear and damage, and replacing the broached ring and installing a special washer. Lastly, the NPRM proposed to require installing MR damper P/N 3G220V01353, prohibit installing MR damper P/N 3G6220V01351 and P/N 3G6220V01352 on any helicopter, and allow the installation of MR damper P/N 3G220V01353 to constitute terminating action for all of the proposed repetitive required actions.

The NPRM was prompted by EASA AD 2018–0112R1, dated June 4, 2018 (EASA AD 2018–0112R1), which is the most recent of a series of ADs issued by EASA, the Technical Agent for the Member States of the European Union, to correct an unsafe condition for certain Leonardo S.p.A. Helicopters (formerly Finmeccanica S.p.A., Helicopter Division (FHD), AgustaWestland S.p.A., Agusta S.p.A.), AgustaWestland Philadelphia Corporation (formerly Agusta Aerospace Corporation) Model AB139 and AW139 helicopters. EASA advises of multiple failures of MR damper P/Ns 3G6220V01351 and 3G6220V01352. EASA states that in some cases these failures occurred at the eye end and body lugs resulting in disconnection of the MR damper in-flight. EASA further states that a combination of factors, including cracks on the MR damper rod end and body end and in-service failure of the eye end and body lugs may have contributed to the MR damper disconnections. Information issued by Leonardo Helicopters advises of MR damper cracking, loose rod ends, bearing rotation in the damper seat, and damage, incorrect engagement, and misalignment of the lag damper broached ring nut, particularly the broached ring teeth and the damper piston slots.

EASA states that this condition could result in loss of the lead-lag damping function of the MR blade, damage to adjacent critical rotor components, and subsequent reduced control of the helicopter. Accordingly, EASA AD 2018–0112R1 requires various one-time and repetitive inspections of the MR damper, a torque check of the damper body end, and replacing any MR damper with a crack or that fails the torque check. EASA AD 2018–0112R1 also requires replacing MR damper P/N 3G6220V01351 and 3G6220V01352 with P/N 3G220V01353, as additional tests determined that MR damper P/N 3G220V01353 does not need to be subject to inspections for cracks, provided it is removed from service before it reaches its retirement life.

Actions Since the NPRM Was Issued

Since the NPRM was issued, the FAA identified an action required by EASA AD 2018–0112R1 that was inadvertently omitted in the NPRM and incorrect thresholds for different actions proposed in the NPRM. The NPRM omitted the one-time dye penetrant inspection for any MR dampers that have accumulated 300 or more total hours time-in-service (TIS). The NPRM also stated incorrect thresholds to inspect each rod end bearing and body end bearing for rotation. The NPRM proposed to require those inspections based on the total hours TIS accumulated by the MR damper, when the thresholds for those inspections should have been based on the total hours TIS accumulated by the rod end and body end, independently. This SNPRM makes those updates.

The NPRM also inadvertently omitted the option to accomplish an eddy current inspection for some inspections. This SNPRM adds that alternative for those inspections.

Lastly, this SNPRM utilizes the FAA's new practice of proposing to incorporate EASA AD 2018–0112R1 by reference.

Comments

The FAA gave the public the opportunity to participate in developing this proposed AD. The FAA has considered the comment received.

Request To Reduce the Applicability

One commenter requested removing MR damper P/N 3G6220V01353 from the applicability. The commenter stated that the only requirement in this AD for that P/N is to reduce the torque on the body end of the MR damper and that procedures for this are available in the Interactive Electronic Technical Publications (IETP). The commenter asked if the intent is to capture any MR damper P/N 3G6220V01353 installed prior to the current IETP revisions with an incorrect torque. The commenter further stated that part II of Leonardo Helicopters Alert Service Bulletin No. 139–452, Revision B, dated April 10, 2018 (ASB 139–452 Rev B), is not applicable to MR damper P/N 3G6220V01353.

The FAA disagrees. The commenter is correct that part II of ASB 139–452 Rev B is not applicable to MR damper P/N 3G6220V01353; however, part I of ASB 139–452 Rev B, which specifies procedures to reduce the torque of the nut on the bolt attaching each MR damper to the MR hub, is applicable to MR damper P/N 3G6220V01353. Additionally, the FAA appreciates that while the procedures to reduce that torque may now be available in the IETP, not all operators are required to accomplish manufacturer's maintenance procedures. Where the FAA has determined that procedures, including manufacturer's maintenance procedures, are necessary to correct an unsafe condition, the FAA must issue an AD.

FAA's Determination

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in EASA AD 2018–0112R1 referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Certain changes described above expand the scope of the NPRM. As a result, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Related Service Information Under 1 CFR Part 51

EASA AD 2018–0112R1 requires reducing the installation torque of the bolts affixing each affected MR damper to the MR hub. For certain affected MR dampers, EASA AD 2018–0112R1 requires a one-time dye penetrant inspection of the rod and body ends, and a repetitive detailed visual inspection of the rod and body ends. EASA AD 2018–0112R1 allows an eddy current inspection as an alternative to those inspections. For certain affected MR dampers, EASA AD 2018–0112R1 also requires repetitively inspecting the rod and body end bearings for rotation, visually inspecting the rod end broached ring nut, accomplishing a bearing friction inspection of the body and rod end bearings, and a detailed inspection of the anti-rotation block. EASA AD 2018–0112R1 also requires a one-time visual inspection of certain affected MR damper rod end installations and a torque check of the MR damper broached ring nut. For certain affected MR dampers, EASA AD 2018–0112R1 requires replacing any special washer P/N 3G6220A05051 with a new washer P/N 3G6220A05052. If there is a crack or damage detected in any inspection, EASA AD 2018–0112R1 requires contacting Leonardo and, if the discrepancy is confirmed, replacing the MR damper. EASA AD 2018–0112R1 also requires corrective actions if any discrepancy is detected in the inspections for rotation, friction, and torque. EASA AD 2018–0112R1 allows installing MR damper P/N 3G6220V01353 on a helicopter, provided that it is installed using the correct torque values. Lastly, EASA AD 2018–0112R1 prohibits installing MR damper P/N 3G6220V01351 and P/N 3G6220V01352 on any helicopter.

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

Proposed AD Requirements of This SNPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2018–0112R1, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2018–0112R1 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2018–0112R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2018–0112R1 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2018–0112R1. Service information referenced in EASA AD 2018–0112R1 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

Where EASA AD 2018–0112R1 requires the compliance time of after the last flight (ALF) of the day inspection, this proposed AD would require the compliance time of before the first flight of the day. Some compliance times in EASA AD 2018–0112R1 are on condition of part removal or replacement, whereas this proposed AD would not include those compliance times. EASA AD 2018–0112R1 requires a torque check of the MR damper broached ring nut, whereas this proposed AD would require a torque inspection instead to clarify that the action must be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D. EASA AD 2018–0112R1 requires making sure that there are no scratches or dents on the rod end, however it does not state corrective action for this requirement; this proposed AD would require removing the rod end from service if there is a scratch or dent on the rod end. Where EASA AD 2018–0112R1 requires contacting Leonardo and replacing the MR damper with a serviceable part, this proposed would require replacing or removing parts from service instead. Where EASA AD 2018–0112R1 requires accomplishing applicable corrective action(s) as specified in, and in accordance with, the instructions in service information, this proposed AD would require removing parts from service for some of the corrective actions instead. Where EASA AD 2018–0112R1 requires a one-time dye penetrant inspection of certain rod ends when installed, this proposed AD would not. Instead, this proposed AD would prohibit installing certain rod ends that are not marked with a black dot and therefore have not been inspected.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 126 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Performing the MR damper inspections would take about 24 work-hours, for an estimated cost of $2,040 per helicopter and $257,040 for the U.S. fleet, per inspection cycle.

Replacing a rod end would take about 3 work-hours and parts would cost about $500, for an estimated cost of $755 per rod end. Replacing a broached ring and broached ring nut would take about 3 work-hours and parts would cost about $125, for an estimated cost of $380 per broached ring and broached ring nut. Replacing an anti-rotation block would take about 3 work-hours and parts would cost about $50, for an estimated cost of $305 per anti-rotation block. Replacing an MR damper would take about 2 work-hours and parts would cost about $18,000, for an estimated cost of $18,170 per MR damper.

Authority for This Rulemaking

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

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

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.a.: Docket No. FAA–2020–0283; Project Identifier 2018–SW–045–AD.

(a) Comments Due Date

The FAA must receive comments by October 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, as identified in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0112R1, dated June 4, 2018 (EASA AD 2018–0112R1).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

(e) Unsafe Condition

This AD was prompted by reports of failed main rotor (MR) dampers. The FAA is issuing this AD to address a crack in an MR damper. The unsafe condition, if not addressed, could result in seizure of the MR damper, detachment of the MR damper in-flight, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0112R1.

(h) Exceptions to EASA AD 2018–0112R1

(1) Where EASA AD 2018–0112R1 requires compliance in terms of flight hours (FH), this AD requires using hours time-in-service (TIS).

(2) Where EASA AD 2018–0112R1 refers to FH accumulated by a part since new (first installation on a helicopter) or since overhaul, this AD requires using total hours TIS.

(3) Where EASA AD 2018–0112R1 refers to its effective date; May 10, 2016 (the effective date of EASA AD 2016–0087, dated May 3, 2016); July 28, 2016 (the effective date of EASA AD 2016–0140, dated July 14, 2016); or September 11, 2017 (the effective date of EASA AD 2017–0160, dated August 28, 2017), this AD requires using the effective date of this AD.

(4) Where EASA AD 2018–0112R1 requires the compliance time of during an ''after the last flight (ALF) of the day inspection,'' this AD requires the compliance time of before the first flight of the day.

(5) Where the service information referenced in EASA AD 2018–0112R1 specifies using a magnifying glass, this AD requires using a 5X or higher power magnifying glass.

(6) Where the service information referenced in EASA AD 2018–0112R1 specifies discarding parts, this AD requires removing those parts from service.

(7) Where paragraph (2) of EASA AD 2018–0112R1 requires compliance within 30 FH after 10 May 2016 (the effective date of EASA AD 2016–0087, dated May 3, 2016), or at the first MR damper removal, whichever occurs first, for a MR damper that has accumulated 300 or more FH, this AD requires compliance within 30 hours TIS after the effective date of this AD for a MR damper that has accumulated 300 or more total hours TIS.

(8) This AD does not require the actions required by paragraph (3) of EASA AD 2018–0112R1.

(9) Where paragraph (8) of EASA AD 2018–0112R1 refers to having a serial number (S/N) specified in Part V of FHD BT 139–450, this AD requires the actions of that paragraph for helicopters with an MR damper part number (P/N) 3G6220V01351 or 3G6220V01352 with an S/N up to MCR8086 inclusive, installed, that has accumulated less than 600 total hours TIS.

(10) Where paragraph (10) of EASA AD 2018–0112R1 refers to having an S/N specified in in Part VII of FHD BT 139–450, this AD requires the actions of that paragraph for helicopters with:

(i) MR damper P/N 3G6220V01351 or 3G6220V01352 with an S/N up to MCR8764 inclusive, and with rod end P/N M006–01H004–041, –045, or –053, installed, except MR dampers confirmed of having 60–80 Nm applied and MR dampers marked with ''BT 139–446 Part II'' or ''BT 139–446 Part III'' on the logcard; or

(ii) MR damper P/N 3G6220V01351 or 3G6220V01352 that has had the damper rod end assembly removed before the issuance of ''BT 139–446'' installed, even if it has an S/N higher than MCR8764 or it has been confirmed of having 60–80 Nm applied.

Note 1 to paragraph (h)(10): MR dampers confirmed of having 60–80 Nm applied are listed in Table 1 (two pages) of Annex A, of Leonardo Helicopters Alert Service Bulletin No. 139–450, Revision D, dated May 28, 2019.

(11) Where paragraph (10) of EASA AD 2018–0112R1 requires a torque check, this AD requires a torque inspection.

(12) Where the service information referenced in paragraph (10) of EASA AD 2018–0112R1 specifies making sure that there are not scratches or dents on the rod end, this AD requires, before further flight, removing the rod end from service if there is a scratch or dent on the rod end.

(13) Where paragraph (12) of EASA AD 2018–0112R1 requires contacting Leonardo and replacing the MR damper with a serviceable part, this AD does not. This AD requires the following:

(i) If there is a crack in an MR damper body end, before further flight, replace the MR damper.

(ii) If there is a crack in an MR damper rod end, before further flight, remove the MR damper rod end from service.

(iii) If there is damage in any teeth of a rod end broached ring nut or damper piston slot, or if the engagement or alignment is not correct, before further flight, remove the rod end broached ring nut from service.

(14) Paragraph (13) of EASA AD 2018–0112R1 requires accomplishing the applicable corrective action(s) as specified in, and in accordance with, the instructions of FHD BT 139–450 or FHD BT 139–452, as applicable, except where:

(i) If there is any bearing seat rotation or misaligned slippage mark in the MR damper rod end, this AD requires, before further flight, removing the MR damper rod end from service.

(ii) If the MR damper rod end torque value is more than 30.0 Nm (265.5 in lb), this AD requires, before further flight, removing the MR damper rod end from service.

(iii) If any MR damper anti-rotation block dimension measurement exceeds allowable limits, this AD requires, before further flight, removing the anti-rotation block from service.

(15) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2018–0112R1.

(i) Parts Prohibition

As of the effective date of this AD, do not install an MR damper rod end P/N M006–

01H004–041, M006–01H004–045, or M006–01H004–053 on any helicopter, unless it is marked with a black dot indicating that it has passed inspections specified by Leonardo Helicopters BT 139–450.

(j) No Reporting Requirement

Although the service information referenced in EASA AD 2018–0112R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For EASA AD 2018–0112R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283.

(2) For more information about this AD, contact Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

Issued on September 7, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19607 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0781; Project Identifier AD–2021–00775–E]

RIN 2120–AA64

Airworthiness Directives; Austro Engine GmbH Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–09–04, which applies to all Austro Engine GmbH E4 and E4P model diesel piston engines. AD 2021–09–04 requires replacing a certain oil pump as well as the oil filter and engine oil. Since the FAA issued AD 2021–09–04, the FAA determined that the requirement to replace the oil pump should be limited to only Austro Engine E4 and E4P model diesel piston engines with a certain oil pump, identified by part number (P/N) and serial number (S/N), installed. This proposed AD would require replacing a certain oil pump, the oil filter, and the engine oil installed on Austro Engine GmbH E4 and E4P model diesel piston engines. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 14, 2021.

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

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

For service information identified in this NPRM, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, 2700 Weiner Neustadt, Austria; phone: +43 2622 23000; website: *www.austroengine.at.* You may view this service information at the Airworthiness Products Section, Operational Safety Branch, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0781; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7134; fax: (781) 238–7199; email: *wego.wang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0781; Project Identifier AD–2021–00775–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such

marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–09–04, Amendment 39–21517 (86 FR 21637, April 23, 2021), (AD 2021–09–04), for all Austro Engine GmbH E4 and E4P model diesel piston engines. AD 2021–09–04 was prompted by reports of an oil pump blockage on E4 model diesel piston engines. AD 2021–09–04 requires replacing a certain oil pump as well as the oil filter and engine oil. The agency issued AD 2021–09–04 to prevent failure of the engine lubrication system.

Actions Since AD 2021–09–04 Was Issued

Since the FAA issued AD 2021–09–04, the FAA determined that the requirement to replace the oil pump should be limited to only Austro Engine E4 and E4P model diesel piston engines with a certain oil pump installed, identified by P/N and S/N in Austro Engine GmbH Mandatory Service Bulletin No. MSB–E4–030/4, Revision No. 4, dated March 30, 2021.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Austro Engine GmbH Mandatory Service Bulletin No. MSB–E4–030/4, Revision No. 4, dated March 30, 2021 (the MSB). This service information specifies procedures for replacing the affected oil pumps installed on E4 and E4P model diesel piston engines. This service information also specifies procedures for replacing the oil filter and engine oil installed on these engines. In addition, this service information identifies the applicable S/Ns of affected E4 and E4P model diesel piston engines, the affected oil pumps requiring replacement, and an additional oil pump replacement option. The Director of the Federal Register previously approved the MSB for incorporation by reference on May 10, 2021 (86 FR 21637, April 23, 2021). 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**.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2021–09–04. This proposed AD would require replacement of an affected oil pump, identified by P/N and S/N in the MSB. This proposed AD would also require replacement of the oil filter and engine oil.

Differences Between This Proposed AD and the Service Information

The MSB specifies that the removed oil pump must be returned to Austro Engine GmbH. The MSB specifies that information, including the engine flight hours (FHs) recorded at the time of the oil pump replacement, must be sent to Austro Engine GmbH. This proposed AD would not mandate sending the removed oil pump or information, including the engine FHs recorded at the time of oil pump replacement, to Austro Engine GmbH.

The MSB also specifies that for all engines with 10 FHs or less, to replace the affected oil pump, oil filter, and engine oil before the next flight. Whereas, this proposed AD would require, for Group 1 and Group 2 engines with 10 FHs or less, replacement of a certain oil pump, oil filter, and engine oil within 30 days, before accumulating 10 FHs, or during the next scheduled maintenance, whichever occurs first after the effective date of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 55 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace the oil pump, oil filter, and engine oil.	16 work-hours × $85 per hour = $1,360.	$1,488	$2,848	$156,640

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–09–04, Amendment 39–21517 (86 FR 21637, April 23, 2021); and

■ b. Adding the following new airworthiness directive:

Austro Engine GmbH: Docket No. FAA–2021–0781; Project Identifier AD–2021–00775–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by October 14, 2021.

(b) Affected ADs

This AD replaces AD 2021–09–04, Amendment 39–21517 (86 FR 21637, April 23, 2021).

(c) Applicability

This AD applies to all Austro Engine GmbH E4 and E4P model diesel piston engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 8550, Reciprocating Engine Oil System.

(e) Unsafe Condition

This AD was prompted by reports of an oil pump blockage on the E4 model diesel piston engines. The FAA is issuing this AD to prevent failure of the engine lubrication system. The unsafe condition, if not addressed, could result in failure of the engine, in-flight shutdown, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

For Austro Engine GmbH E4 and E4P model diesel piston engines having an oil pump, part number (P/N) E4A–50–000–BHY, with a serial number (S/N) listed in paragraph 1.2., Engines Affected, of Austro Engine GmbH Mandatory Service Bulletin No. MSB–E4–030/4, Revision No. 4, dated March 30, 2021 (the MSB), within the compliance time specified in Table 1 to paragraph (g) of this AD or before further flight, whichever occurs later:

(1) Remove the oil pump, P/N E4A–50–000–BHY, from service and replace with a part eligible for installation using the Accomplishment/Instructions, paragraph 2.2.1 or paragraph 2.2.2, of the MSB, as applicable.

(2) Replace the oil filter and engine oil using the Accomplishment/Instructions, paragraph 2.2.1 or paragraph 2.2.2, of the MSB, as applicable.

Table 1 to Paragraph (g) – Replacement of the Oil Pump, Oil Filter, and Engine Oil

Engine Group	Engine Flight Hours (FHs) Since New as of May 10, 2021 (the effective date of AD 2021-09-04)	Compliance Time (after May 10, 2021, the effective date of AD 2021-09-04)
Group 1 engines and Group 2 engines	10 FHs or less	Within 30 days or before accumulating 10 FHs, or during the next scheduled maintenance, whichever occurs first
Group 1 engines	More than 10 FHs, but less than 50 FHs	Within 3 months or before accumulating 70 FHs since new, or during the next scheduled maintenance, whichever occurs first
Group 1 engines	50 FHs or more	Within 3 months or 20 FHs, or during the next scheduled maintenance, whichever occurs first
Group 2 engines	More than 10 FHs	Within 3 months or 100 FHs, or during the next scheduled maintenance, whichever occurs first

(h) No Reporting Requirements

The reporting requirements in the Accomplishment/Instructions, paragraph 2.2., of the MSB, are not required by this AD.

(i) Installation Prohibition

After the effective date of this AD, do not install onto any engine an oil pump, P/N E4A–50–000–BHY, with an S/N listed in paragraph 1.2., Engines Affected, of the MSB.

(j) Definitions

For the purpose of this AD:

(1) Group 1 engines are E4 model diesel piston engines in configuration ''-A'' that are installed on single-engine airplanes.

(2) Group 2 engines are E4 model diesel piston engines in configuration ''-B'' or ''-C'' and E4P model diesel piston engines that are installed on twin-engine airplanes.

(3) A ''part eligible for installation'' is an oil pump with a P/N and S/N that is not listed in paragraph 1.2., Engines Affected, of the MSB.

(k) Credit for Previous Actions

You may take credit for replacing the oil pump, oil filter, and engine oil required by paragraph (g) of this AD if you performed these replacements before the effective date of this AD using the Accomplishment/Instructions, paragraph 2.2., of Austro Engine GmbH MSB No. MSB–E4–030, Original Issue, dated February 18, 2021; Revision No. 1, dated February 23, 2021; Revision No. 2, dated March 3, 2021; or Revision No. 3, dated March 18, 2021.

(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 paragraph (m)(1) of this AD. Information may be emailed 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 Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7134; fax: (781) 238–7199; email: *wego.wang@faa.gov.*

(2) For service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, 2700 Weiner Neustadt, Austria; phone: +43 2622 23000; website: *www.austroengine.at.* You may view this referenced 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.

Issued on September 7, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19628 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0784; Project Identifier MCAI–2020–01455–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 29, 2021.

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

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

For service information identified in this NPRM, contact Bombardier, Inc., 200 Côte Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0784; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0784; Project Identifier MCAI–2020–01455–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM

contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.go.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–44, dated October 23, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0784.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address fatigue cracking and loss of structural integrity of the circumferential splice joint, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following Bombardier service information, which describes new or more restrictive airworthiness limitations (a special detailed inspection for cracking of the skin circumferential splice at fuselage station (FS) 559.00, between stringer (STR) 10L and STR10R. These documents are distinct since they apply to different airplane configurations. (Note: The asterisk (or ''one star'') with the last three digits of the task number indicates that the task is an airworthiness limitation task.)

- Task 53–30–00–165*, ''Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R,'' of Bombardier Challenger 605 CL–600–1A11 Time Limits/Maintenance Checks (TLMC), Product Support Publication (PSP) 605, Temporary Revision (TR) 5–163, dated April 30, 2020.
- Task 53–30–00–188*, ''Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R,'' of Bombardier Challenger CL–600–2A12 TLMC, PSP 601–5, TR 5–267, dated April 30, 2020.
- Task 53–30–00–191*, ''Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R,'' of Bombardier Challenger CL–600–2B16 TLMC, PSP 601A–5, TR 5–281, dated April 30, 2020.
- Task 53–20–00–192*, ''Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R,'' of Bombardier Challenger CL–600–2B16, CH 604, TLMC, Revision 32, dated December 18, 2019.
- Task 53–20–00–192*, ''Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R,'' of Bombardier Challenger CL–600–2B16, CH 605, TLMC, Revision 21, dated December 18, 2019.
- Task 53–20–00–192*, ''Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R,'' of Bombardier Challenger CL–600–2B16, CH 650, TLMC, Revision 8, dated December 18, 2019.

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

FAA's Determination

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

Proposed Requirements of This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this proposed AD.

Costs of Compliance

The FAA estimates that this proposed AD affects 463 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2021–0784; Project Identifier MCAI–2020–01455–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive by October 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., airplanes, certificated in any category, identified in paragraphs (c)(1) through (3) of this AD.

(1) Model CL–600–1A11 (600) airplanes, serial numbers 1004 through 1085 inclusive.

(2) Model CL–600–2A12 (601) airplanes, serial numbers 3001 through 3066 inclusive.

(3) Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes, serial numbers 5001 through 5194 inclusive, 5301 through 5665 inclusive, 5701 through 6049 inclusive, and 6050 through 6999 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking and loss of structural integrity of the circumferential splice joint, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Figure 1 to paragraph (g) of this AD. The initial compliance time for doing the tasks is at the time specified in the applicable document specified in Figure 1 to paragraph (g) of this AD, or within 60 days after the effective date of this AD, whichever occurs later.

BILLING CODE 4910–13–P

Figure 1 to paragraph (g) –

Time Limits/Maintenance Checks (TLMC) Revisions and Task Numbers

For Model–	Having Serial numbers–	TLMC	Task Numbers and Title
Model CL-600-1A11 (600 variant) airplanes	1004 through 1085 inclusive	PSP 605 TLMC Temporary Revision (TR) 5-163, dated April 30, 2020	53-30-00-165* Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R
Model CL-600-2A12 (601 variant) airplanes	3001 through 3066 inclusive	PSP 601-5 TLMC TR 5-267, dated April 30, 2020	53-30-00-188* Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R
Model CL-600-2B16 (601-3A/3R variant) airplanes	5001 through 5194 inclusive	PSP 601A-5 TLMC TR 5-281, dated April 30, 2020	53-30-00-191* Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R
Model CL-600-2B16 (604 variant) airplanes	5301 through 5665 inclusive	CH 604 TLMC Revision 32, dated December 18, 2019	53-20-00-192* Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R
Model CL-600-2B16 (604 variant) airplanes	5701 through 6049 inclusive	CH 605 TLMC Revision 21, dated December 18, 2019	53-20-00-192* Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R
Model CL-600-2B16 (604 variant) airplanes	6050 through 6999 inclusive	CH 650 TLMC Revision 8, dated December 18, 2019;	53-20-00-192* Special Detailed Inspection of the Skin Circumferential Splice at FS559.00 between STR10L and STR10R
Note: The asterisk (or "one star") with the last three digits of the task number indicates that the task is an airworthiness limitation task.			

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York 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 ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–44, dated October 23, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0784.

(2) For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on September 8, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19703 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0778; Project Identifier 2019–CE–062–AD]

RIN 2120–AA64

Airworthiness Directives; Daher Aerospace (Type Certificate Previously Held by SOCATA) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Daher Aerospace (type certificate previously held by SOCATA) Model TBM 700 airplanes. This proposed AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a non-conforming dump switch ejecting from its slot. This proposed AD would require modifying certain dump switches. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 29, 2021.

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

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

For service information identified in this NPRM, contact Daher Aerospace, 601 NE 10 Street, Pompano Beach, FL 33060; phone: (954) 366–3331; email: *TBMCare@daher.com;* website: *https://www.daher.com/en/aircraft-manufacturer/customer-service/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0778; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Gregory Johnson, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (720) 626–5462; fax: (816) 329–4090; email: *gregory.johnson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2021–0778; Project Identifier 2019–CE–062–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such

marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Gregory Johnson, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0306, dated December 18, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on certain serial-numbered Daher Aerospace (formerly SOCATA) Model TBM 700 airplanes. The MCAI states:

> It has been determined that, in certain conditions, an affected switch [dump switch part number 7388475012 without a seal] may eject from its slot. Investigations identified the root cause in a non-conformity of the affected switch.
>
> This condition, if not corrected, could, in case of smoke/fumes in the cabin, prevent evacuation of the smoke/fumes, possibly resulting in excessive flight crew workload and/or injury to aeroplane occupants.
>
> To address this potential unsafe condition, DAHER AEROSPACE issued the [service bulletin] SB to provide modification instructions.
>
> For the reasons described above, this [EASA] AD requires modification of the affected parts by installation of a seal, and introduces requirements for installation of a dump switch.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0778.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Daher Aerospace Service Bulletin SB 70–271–21, Revision 1, dated November 2019. The service information contains procedures for modifying each dump switch part number 7388475012 by removing the two indicator light units, installing a seal, installing a thin layer of grease, and installing the two indicator lights. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 150 airplanes of U.S. registry. The FAA also estimates that it would take about 1 work-hour per airplane and require parts costing $800 to comply with the modification that would be required by this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, the FAA estimates the inspection cost of this proposed AD on U.S. operators to be $132,750, or $885 per airplane.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Daher Aerospace (Type Certificate Previously Held by SOCATA): Docket No. FAA–2021–0778; Project Identifier 2019–CE–062–AD.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Daher Aerospace (type certificate previously held by SOCATA) Model TBM 700 airplanes, serial numbers 1106 and larger, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2130, Cabin Pressure Control System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI)

originated by an aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a non-confirming dump switch ejecting from its slot. The FAA is issuing this AD to prevent dump switches ejecting from their slots, which, in case of smoke/fumes in the cabin, could prevent evacuation of the smoke/fumes. The unsafe condition, if not addressed, could result in excessive flight crew workload and injury to airplane occupants.

(f) Compliance

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

(g) Required Actions

Within 12 months after the effective date of this AD, inspect each dump switch part number (P/N) 7388475012 to determine if a seal is installed, as depicted in Figure 3 of Daher Aerospace Service Bulletin SB 70–271–21, Revision 1, dated November 2019.

(1) If a seal is installed, no further action is required by this paragraph.

(2) If a seal is not installed, within 12 months after the effective date of this AD, modify the dump switch in accordance with steps 2) through 5) of the Description of Accomplishment Instructions in Daher Aerospace Service Bulletin SB 70–271–21, Revision 1, dated November 2019.

(h) Parts Installation Provision

As of the effective date of this AD, do not install a dump switch P/N 7388475012 on any airplane unless the switch has been modified as described in Daher Aerospace Service Bulletin SB 70–271–21, Revision 1, dated November 2019. Removal of a dump switch from an airplane and re-installation of that dump switch on the same airplane within the same maintenance visit is not an installation for purposes of this paragraph.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Gregory Johnson, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (720) 626–5462; fax: (816) 329–4090; email: *gregory.johnson@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0306, dated December 18, 2019, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2021–0778.

(3) For service information identified in this AD, contact Daher Aerospace, 601 NE 10 Street, Pompano Beach, FL 33060; phone: (954) 366–3331; email: *TBMCare@daher.com;* website: *https://www.daher.com/en/aircraft-manufacturer/customer-service/.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on September 2, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19606 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0729; Project Identifier MCAI–2021–00364–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–06–06, which applies to certain Bell Textron Canada Limited Model 505 helicopters. AD 2021–06–06 requires repetitive fluorescent penetrant inspections (FPIs) of the pilot collective stick and grip assembly and revising the existing Rotorcraft Flight Manual (RFM) for your helicopter. Since the FAA issued AD 2021–06–06, the pilot collective stick and grip assembly has been redesigned. This proposed AD would retain certain requirements of AD 2021–06–06, require modifying your helicopter to include the improved pilot collective stick tube and would add a terminating action for the repetitive FPIs. This proposed AD would also prohibit installing any pilot collective stick and grip assembly unless certain requirements of this proposed AD were met. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 29, 2021.

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

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

For service information identified in this NPRM, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0729; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the Transport Canada AD, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0729; Project Identifier MCAI–2021–00364–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include

supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–06–06, Amendment 39–21473 (86 FR 14366, March 16, 2021) (AD 2021–06–06), for Bell Textron Canada Limited Model 505 helicopters, serial number (S/N) 65011 and subsequent. AD 2021–06–06 requires, before further flight, revising the Limitations section of the existing RFM for your helicopter to prohibit single pilot operations from the right crew seat, require the pilot in command to occupy the left crew seat for dual pilot operations, and depending on configuration, prohibit the use of SPLIT-COM mode. AD 2021–06–06 also requires, before further flight and thereafter at intervals not to exceed 25 hours time-in-service (TIS), removing and cleaning the pilot collective stick and grip assembly and performing an FPI for a crack as specified in the manufacturers service information. AD 2021–06–06 also requires removing any cracked pilot collective stick and grip assembly from service before further flight, and within 10 days after the discovery of any crack, reporting certain information to Bell Product Support Engineering. AD 2021–06–06 also prohibits installing any pilot collective stick and grip assembly on any helicopter unless it has successfully passed the FPI requirements of AD 2021–06–06. Lastly, AD 2021–06–06 prohibits relief under any Master Minimum Equipment List or Minimum Equipment List for the Audio Panel when the aircraft is operated with a single pilot.

AD 2021–06–06 was prompted by Canadian Emergency AD CF–2021–05R2, dated March 4, 2021 (Transport Canada Emergency AD CF–2021–05R2), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition for Bell Textron Canada Limited Model 505 helicopters, S/Ns 65011 and subsequent. Transport Canada advised that FPIs findings showed that cracking of the pilot collective stick and grip assembly could occur at very low flight hours. Transport Canada also specified that Bell Textron Canada Limited revised its service information to introduce a temporary revision to the RFM prohibiting single pilot operations from the right crew seat. This condition, if not addressed, could result in failure of the pilot collective stick and grip assembly and subsequent loss of control of the helicopter.

Accordingly, Transport Canada Emergency AD CF–2021–05R2 prohibited single pilot operations from the right crew seat in accordance with the manufacturers service information. Transport Canada considered its AD an interim action and stated that further AD action may follow.

Actions Since AD 2021–06–06 Was Issued

Since the FAA issued AD 2021–06–06, Transport Canada issued AD CF–2021–05R3, dated March 19, 2021 (Transport Canada AD CF–2021–05R3), which supersedes Transport Canada Emergency AD CF–2021–05R2. Transport Canada advises that since Transport Canada Emergency AD CF–2021–05R2 was issued, the pilot collective stick and grip assembly has been redesigned to address the root cause of the cracking. Accordingly, Transport Canada AD CF–2021–05–R3 retains the requirements of Transport Canada Emergency AD CF–2021–05R2 and requires installing the newly designed pilot collective stick and grip assembly, which is a terminating action for the requirements of Transport Canada Emergency AD CF–2021–05R2. Transport Canada AD CF–2021–05R3 also revises the applicability to include only helicopters that have not incorporated the redesigned pilot collective stick and grip assembly during production.

Finally, the FAA received one comment on AD 2021–06–06 from one commenter. Advanced Helicopter Services requested additional information about AD 2021–06–06, specifically whether performing certain actions specified in Bell Alert Service Bulletin 505–21–20, Revision C, dated March 11, 2021 (ASB 505–21–20 Rev C) would be considered a terminating action for the inspections required by AD 2021–06–06.

The FAA has determined that it is necessary to supersede AD 2021–06–06. The proposed required actions, including required actions performed in accordance with portions of ASB 505–21–20 Rev C, would include a terminating action for the repetitive FPI inspections.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed ASB 505–21–20 Rev C, which provides instructions for an initial and recurring FPIs for cracks in the pilot collective stick and grip assembly part number (P/N) M207–20M478–041/–043/–047 on Bell Textron Canada Limited Model 505 helicopters, serial numbers 65011 through 65347. ASB 505–21–20 Rev C also specifies inserting a temporary revision into the RFM that prohibits single pilot operations from the right crew seat until further notice, and specifies that if the right crew seat pilot collective stick and grip assembly was previously confirmed serviceable following an FPI then the 25 flight hour recurring FPI of the right crew seat pilot collective stick and grip assembly is no longer required provided that the helicopter is only operated

single pilot in command (PIC) from the left crew seat.

The FAA also reviewed Bell 505 RFM TR for Pilot Collective (ASB 505–21–20), BHT–505–FM–1, Temporary Revision (TR–6) (BHT–505–FM–1, TR–6) and Bell 505 RFM TR for Pilot Collective (ASB 505–21–20), BHT–505–FM–2, Temporary Revision (TR–1), each dated March 3, 2021. These temporary revisions specify changes to Section 1 of the RFM Limitations Section that the minimum flight crew consists of one pilot that shall operate from the left crew seat and that dual operation is approved provide that the PIC occupies the left crew seat. BHT–505–FM–1, TR–6 also prohibits use of SPLIT–COM mode.

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.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements from AD 2021–06–06. This proposed AD would require, before further flight, revising Section 1, the Limitations section of the existing RFM for your helicopter to prohibit single pilot operations from the right crew seat, require the PIC to occupy the left crew seat for dual pilot operations, and depending on configuration, prohibit the use of SPLIT-COM mode. This proposed AD would also require, before further flight after the effective date of this AD, and thereafter at intervals not to exceed 25 hours TIS, removing the pilot collective stick and grip assembly and performing an FPI for a crack and depending on the inspection results, removing a certain part from service. This proposed AD would also require within 12 months after the effective date of this AD, removing a certain part-numbered pilot collective stick tube from service and installing an improved pilot collective stick tube in accordance with the manufacturers service information and thereafter, removing a certain part-numbered pilot collective stick tube from service before it accumulates 300 total hours TIS. Additionally, this proposed AD would consider certain proposed actions to be a terminating action for other proposed actions. This proposed AD would also prohibit installing any pilot collective stick and grip assembly unless certain proposed actions are accomplished.

This proposed AD would require revising the Limitations section of the existing RFM for your helicopter. An owner/operator (pilot) may incorporate the RFM revisions, and the owner/operator must enter compliance with the applicable paragraphs of the AD into the aircraft records in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). This is an exception to the FAA's standard maintenance regulations.

Differences Between This Proposed AD and the Transport Canada AD

This proposed AD would prohibit relief under any Master Minimum Equipment List or Minimum Equipment List for the Audio Panel when the aircraft is operated with a single pilot, whereas Transport Canada AD CF–2021–05R3 does not. Transport Canada AD CF–2021–05R3 requires the repetitive FPIs if the aircraft is not flown solely from the left crew seat whereas this proposed AD requires FPIs regardless.

Transport Canada AD CF–2021–05R3 requires operators to ''advise all flight crews'' of changes to the RFM, and thereafter to ''operate the helicopter accordingly.'' However, this AD would not specifically require those actions. 14 CFR 91.9 requires that no person may operate a civil aircraft without complying with the operating limitations specified in the RFM. Therefore, including a requirement in this proposed AD to operate the helicopter according to the revised RFM would be redundant and unnecessary. Further, compliance with such a requirement in an AD would be impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the helicopter in such a manner would be unenforceable.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 98 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Revising the existing RFM for your helicopter would take about 0.5 work-hour for an estimated cost of $43 per helicopter.

Removing, cleaning, and performing an FPI of the pilot collective stick and grip assembly would take about 3 work-hours for an estimated cost of $255 per helicopter and $24,990 for the U.S. fleet per inspection cycle.

Installing an improved pilot collective stick tube would take about 5 work-hours and parts would cost about $1,256 for an estimated cost of $1,681 per helicopter.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–06–06, Amendment 39–21473 (86 FR 14366, March 16, 2021); and

■ b. Adding the following new airworthiness directive:

Bell Textron Canada Limited: Docket No. FAA–2021–0729; Project Identifier MCAI–2021–00364–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by October 29, 2021.

(b) Affected ADs

This AD replaces AD 2021–06–06, Amendment 39–21473 (86 FR 14366, March 16, 2021) (AD 2021–06–06).

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 505 helicopters, serial number (S/N) 65011 through 65347 inclusive, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6710, Main Rotor Control.

(e) Unsafe Condition

This AD was prompted by a report of a cracked pilot collective stick and grip assembly. The FAA is issuing this AD to detect a cracked pilot collective stick and grip assembly. The unsafe condition, if not addressed, could result in failure of the pilot collective stick and grip assembly and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Before further flight after the effective date of this AD, revise the Limitations section of the existing Rotorcraft Flight Manual (RFM) for your helicopter by inserting Bell 505 RFM Temporary Revision (TR) for Pilot Collective (ASB 505–21–20), BHT–505–FM–1, Temporary Revision (TR–6) or Bell 505 RFM TR for Pilot Collective (ASB 505–21–20), BHT–505–FM–2, Temporary Revision (TR–1), each dated March 3, 2021, as applicable to your helicopter. Using a different document with information identical to the information for the ''Flight Crew'' and ''Configuration,'' as applicable to your helicopter, in the RFM TR specified in this paragraph for your helicopter is acceptable for compliance with the requirements of this paragraph. This action may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9(a)(1) through (4) and § 91.417(a)(2)(v). The record must be maintained as required by § 91.417, § 121.380, or § 135.439.

(2) Before further flight after the effective date of this AD, and thereafter at intervals not to exceed 25 hours time-in-service (TIS):

(i) Remove the pilot collective stick and grip assembly from the jackshaft assembly and clean the areas specified in Figure 2 of Bell Alert Service Bulletin 505–21–20, Revision C, dated March 11, 2021 (ASB 505–21–20 Rev C) with a clean cloth C–516C or equivalent moistened with dry cleaning solvent C–304 or equivalent.

(ii) Perform a fluorescent penetrant inspection (FPI) for a crack by following the Accomplishment Instructions, Part I, paragraph 5. (but not paragraphs 5.a. and b.) of ASB 505–21–20 Rev C. Perform this FPI in the areas specified in Figure 2 of ASB 505–21–20 Rev C. If there is a crack, before further flight, remove the pilot collective stick and grip assembly from service.

(3) Within 12 months after the effective date of this AD, remove the pilot collective stick tube from service and install pilot collective stick tube part number (P/N) M207–20M301–043 by following the Accomplishment Instructions, Part II, paragraphs 3. through 4. of ASB 505–21–20 Rev C except where this service information specifies discarding parts, you are required to remove those parts from service instead. Thereafter, remove from service pilot collective stick tube P/N M207–20M301–043 before it accumulates 300 total hours TIS

(4) Completing the actions required in paragraph (g)(3) of this AD constitutes a terminating action for the requirements in paragraphs (g)(1) and (2) of this AD.

(5) As of the effective date of this AD, do not install any pilot collective stick and grip assembly on any helicopter unless the actions required by paragraphs (g)(2) and (g)(3) of this AD have been accomplished.

(6) As of the effective date of this AD, relief under any Master Minimum Equipment List or Minimum Equipment List for the Audio Panel is prohibited when the aircraft is operated with a single pilot.

(h) Credit for Previous Actions

If you performed an FPI of the pilot collective stick and grip assembly before the effective date of this AD using Bell Alert Service Bulletin 505–21–20, dated February 20, 2021, Bell Alert Service Bulletin 505–21–20, Revision A, dated February 26, 2021, or Bell Alert Service Bulletin 505–21–20, Revision B, dated March 3, 2021, you met the before further flight FPI requirement of paragraph (g)(2) of this AD.

(i) Special Flight Permits

A special flight permit to a maintenance facility may be granted provided that:

(1) There are no passengers on-board,

(2) The helicopter is flown from the copilot seat only, and

(3) The GMA (intercom) is operative.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

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

(2) For service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in Transport Canada AD CF–2021–05R3, dated March 19, 2021. You may view the Transport Canada AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–0729.

Issued on September 2, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19608 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0728; Project Identifier MCAI–2020–00656–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 206, 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, 206L–3, and 206L–4 helicopters. This proposed AD was

prompted by reports of cracked or missing nuts on the tail rotor drive shaft (TRDS) disc pack (Thomas) couplings. This proposed AD would require removing certain nuts from service, installing newly designed nuts, and applying a specific torque and a torque stripe to each newly installed nut. This proposed AD would then require, after the installation of each newly designed nut, inspecting the torque and, depending on the inspection results, either applying a torque stripe or performing further inspections and removing certain parts from service. Finally, this proposed AD would prohibit installing any affected nut on any TRDS Thomas coupling.

The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 29, 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 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0728; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the Transport Canada AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0728; Project Identifier MCAI–2020–00656–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Canadian AD CF–2019–34, dated September 25, 2019 (Transport Canada AD CF–2019–34), to correct an unsafe condition for Bell Helicopter Textron Canada Limited (now Bell Textron Canada Limited) Model 206, 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, 206L–3, and 206L–4 helicopters, all serial numbers. Transport Canada AD CF–2019–34 advised of reports of cracked or missing nuts at the TRDS Thomas couplings, which could have been caused by improper torque or hydrogen embrittlement. This condition, if not addressed, could result in loss of the tail rotor and subsequent loss of control of the helicopter.

After Transport Canada issued Transport Canada AD CF–2019–34, it was determined that helicopters modified in accordance with Supplemental Type Certificate (STC) SH2750NM or Transport Canada STC SH99–202, were not able to comply with AD CF–2019–34. Accordingly, Transport Canada issued AD CF–2020–15, dated May 13, 2020 (Transport Canada AD CF–2020–15) which supersedes Transport Canada AD CF–2019–34, and contains a new requirement for helicopters with STC SH2750NM or Transport Canada STC SH99–202 installed or models that have been modified per Bell Service Instruction BHT–206–SI–2052, Revision 1, dated October 14, 2010 (BHT–206–SI–2052). Transport Canada advises for certain model helicopters, the newly designed nuts cannot be installed because STC SH2750NM and Transport Canada STC SH99–202 install a pulley at the Thomas coupling location causing insufficient clearance. Transport Canada further advises for certain model helicopters with STC SH2750NM or Transport Canada STC SH99–202 installed, different part-numbered nuts may be installed which were not identified in the applicable service information and are now required to be replaced with a new part-numbered nut that is not vulnerable to the unsafe condition. Accordingly, Air Comm Corporation, the STC holder for STC SH2750NM, issued new service information to address these additional issues and provide newly developed instructions which apply to certain model helicopters with STC SH2750NM or Transport Canada STC SH99–202 installed.

Additionally, Transport Canada advises that BHT–206–SI–2052 which is optional, specifies procedures for Model 206L–1 and 206L–3 helicopters to upgrade the airframe and systems and also includes installation of the Model 206L–4 TRDS Thomas coupling. According to Transport Canada, models that have incorporated BHT–206–SI–2052, with STC SH2750NM or Transport Canada STC SH99–202 installed, will have the Model 206L–4 helicopter pulley configuration and are subject to the Air Comm Corporation service information.

Accordingly, Transport Canada AD CF–2020–15 requires the replacement of the affected nuts with the newly designed nuts at each TRDS Thomas coupling.

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA of the unsafe condition described in the Transport Canada AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other helicopters of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bell Alert Service Bulletin 206–19–136, dated August 27, 2019, and Bell Alert Service Bulletin 206L–19–181, Revision A, dated August 29, 2019. This service information specifies procedures for replacing the affected nuts with the newly designed corrosion-resistant nuts.

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

Other Related Service Information

The FAA reviewed Air Comm Corporation Service Bulletin SB 206EC–092619, Revision NC, dated September 26, 2019, which also specifies procedures for replacing the affected nuts with the newly designed corrosion-resistant nuts, but explains that affected helicopters equipped with Air Comm Corporation air conditioning systems installed under STC SH2750NM use the affected nut to attach a pulley onto the TRDS, which causes clearance issues for the nuts to be installed at the coupling. Therefore, this service bulletin specifies replacing the nut with a lower profile nut.

The FAA also reviewed BHT–206–SI–2052. This service information specifies procedures to upgrade Model 206L–1 and 206L–3 helicopters to allow operations at an increased internal gross weight.

Proposed AD Requirements in This NPRM

This proposed AD would require within 600 hours time-in-service (TIS) after the effective date of this AD, removing from service each affected nut, and installing a newly designed nut. This proposed AD would also require applying a specific torque and a torque stripe to each newly installed nut. This proposed AD would also require, within 25 hours TIS after installation of each newly designed nut, inspecting the torque of each nut, and depending on the results of the inspection, this proposed AD would require further inspections and removing certain parts from service. Finally, this proposed AD would prohibit installing any affected nut on any on any TRDS Thomas coupling.

Differences Between This Proposed AD and the Transport Canada AD

The Transport Canada AD requires compliance within 600 hours air time or within the next 24-months, whichever occurs first, whereas this proposed AD would require compliance within 600 hours TIS and an additional inspection at 25 hours TIS after installation of certain nuts.

Costs of Compliance

The FAA estimates that this proposed AD would affect 1439 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

Replacing each affected nut with the newly designed nut and applying torque and a torque stripe would take about 4 work-hours, and parts would cost about $75 for an estimated cost of $415 per nut replacement and $597,185 per nut replacement for the U.S. fleet.

Replacing each TRDS Thomas coupling would take about 4 work-hours, and parts would cost about $4,000 for an estimated cost of $4,340 per TRDS Thomas coupling replacement.

If required, inspecting the torque of each newly installed nut, and inspecting each TRDS Thomas coupling, each bolt, nut and washer for elongated holes and fretting on the fasteners would take about 0.5 work-hours for an estimated cost of $43 per inspection.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Textron Canada Limited: Docket No. FAA–2021–0728; Project Identifier MCAI–2020–00656–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 206, 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, 206L–3, and 206L–4 helicopters, certificated in any category, with nut part number (P/N) MS21042L4 or P/N MS21042L5 installed on the tail rotor drive shaft (TRDS) disc pack (Thomas) couplings.

Note 1 to paragraph (c): Helicopters with an OH–58A designation are Model 206A–1 helicopters.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6510, Tail Rotor Drive Shaft.

(e) Unsafe Condition

This AD was prompted by reports of cracked or missing nuts installed on the TRDS Thomas couplings. The FAA is issuing this AD to prevent failure or loss of a nut on the TRDS Thomas couplings. The unsafe condition, if not addressed, could result in loss of the tail rotor and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Within 600 hours time-in-service (TIS) after the effective date of this AD:

(i) For helicopters that have not been modified by installing Supplemental Type Certificate (STC) SH2750NM:

(A) Remove each nut P/N MS21042L4 installed on each TRDS Thomas coupling from service, and replace with nut P/N NAS9926–4L. The location of nut P/N NAS9926–4L is depicted in Detail A Figure 1 of Bell Alert Service Bulletin (ASB) 206–19–136, dated August 27, 2019 (ASB 206–19–136) or Bell ASB 206L–19–181, Revision A, dated August 29, 2019 (ASB 206L–19–181), as applicable to your model helicopter.

(B) Apply a torque of 5.65 Nm (50 in lb) to each nut installed as required by paragraph (g)(1)(i)(A) of this AD, and apply a torque stripe using torque seal lacquer (C–049) or equivalent lacquer, as shown in Figure 2 of ASB 206–19–136 or ASB 206L–19–181, as applicable to your model helicopter.

Note 2 to paragraph (g)(1)(i)(B): Torque stripes are referred to as witness marks in ASB 206–19–136 and ASB 206L–19–181.

(ii) For Bell Textron Canada Limited Model 206, 206A, 206A–1, 206B, 206B–1, and 206L helicopters that have been modified by installing STC SH2750NM and Model 206L–1, and 206L–3 helicopters that have been modified by installing STC SH2750NM but have not been modified by accomplishing Bell Service Instruction BHT–206–SI–2052, Revision 1, dated October 14, 2010 (BHT–206–SI–2052):

(A) Remove each nut P/N MS21042L4 installed on each TRDS Thomas coupling from service, except for nuts P/N MS21042L4 installed on the forward short TRDS Thomas coupling, and replace with nut P/N NAS9926–4L. The location of nut P/N NAS9926–4L is depicted in Detail A Figure 1 of ASB 206–19–136 or ASB 206L–19–181 as applicable to your model helicopter.

(B) Remove each nut P/N MS21042L4 installed on the forward short TRDS Thomas coupling from service and replace with nut P/N 90–132L4.

(C) For each nut installed as required by paragraphs (g)(1)(ii)(A) and (B) of this AD, apply a torque of 5.65 Nm (50 in lb) to each nut and apply a torque stripe using torque seal lacquer (C–049) or equivalent lacquer, as shown in Figure 2 of ASB 206–19–136 or ASB 206L–19–181, as applicable to your model helicopter.

(iii) For Bell Textron Canada Limited Model 206L–1, and 206L–3 helicopters that have been modified by installing STC SH2750NM and have been modified by accomplishing BHT–206–SI–2052:

(A) Remove each nut P/N MS21042L4 installed on each TRDS Thomas coupling from service, except for nuts P/N MS21042L4 installed on the forward short TRDS Thomas coupling, and replace with nut P/N NAS9926–4L. The location of nut P/N NAS9926–4L is depicted in Detail A Figure 1 of ASB 206L–19–181.

(B) Remove each nut P/N MS21042L4 installed on the forward short TRDS Thomas coupling from service and replace with nut P/N 90–132L4.

(C) For each nut installed as required by paragraphs (g)(1)(iii)(A) and (B) of this AD, apply a torque of 5.65 Nm (50 in lb) to each nut, and apply a torque stripe using torque seal lacquer (C–049) or equivalent lacquer, as shown in Figure 2 of ASB 206L–19–181.

(iv) For Bell Textron Canada Limited Model 206L–4 helicopters that have been modified by installing STC SH2750NM:

(A) Remove each nut P/N MS21042L4 installed on each TRDS Thomas coupling from service, except for nuts P/N MS21042L4 installed on the forward short TRDS Thomas coupling, and replace with nut P/N NAS9926–4L. The location of nut P/N NAS9926–4L is depicted in Detail A Figure 1 of ASB 206L–19–181.

(B) Remove from service each nut P/N MS21042L5 installed on the forward short TRDS Thomas coupling and replace with nut P/N 90–132L5.

(C) For each nut installed as required by paragraphs (g)(1)(iv)(A) and (B) of this AD, apply a torque of 5.65 Nm (50 in lb) to each nut, and apply a torque stripe using torque seal lacquer (C–049) or equivalent lacquer, as shown in Figure 2 of ASB 206L–19–181.

(2) Within 25 hours TIS after installation of any nut P/N NAS9926–4L, P/N 90–132L4, or P/N 90–132L5, as required by paragraphs (g)(1)(i)(A), (ii)(A) and (B), (iii)(A) and (B), or (iv)(A) and (B) of this AD, apply a torque of 5.65 Nm (50 in lb) to each nut.

(i) If the nut does not move, apply a torque stripe using torque seal lacquer (C–049) or equivalent lacquer, as shown in Figure 2 of ASB 206–19–136 or ASB 206L–19–181, as applicable to your model helicopter.

(ii) If any nut moves, inspect each TRDS Thomas coupling and each bolt, nut, and washer for elongated holes and fretting on the fasteners. If any TRDS Thomas coupling has an elongated hole, remove the TRDS Thomas coupling from service. If any bolt, nut, or washer has any fretting, remove the affected part from service.

(3) As of the effective date of this AD, do not install nut P/N MS21042L4 or MS21042L5 on any TRDS Thomas coupling.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

(2) For service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in Transport Canada AD CF–2020–15, dated May 13, 2020. You may view the Transport Canada AD on the internet at *https://www.regulations.gov* in the AD Docket.

Issued on September 2, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–19605 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0779; Project Identifier MCAI–2020–01505–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters. This proposed AD was prompted by a report of chafing marks on a wiring harness near the locking washer of the lateral control rod. This proposed AD would require an inspection of the wiring harness and the routing of the wiring harness and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 29, 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 EASA material that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0779.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0779; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: (817) 222–4130; email: *jacob.fitch@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0779; Project Identifier MCAI–2020–01505–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: (817) 222–4130; email: *jacob.fitch@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.

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0246, dated November 10, 2020 (EASA AD 2020–0246), to correct an unsafe condition for certain Airbus Helicopters Deutschland GmbH, formerly Eurocopter Deutschland GmbH Model MBB–BK 117 D–2 helicopters.

This proposed AD was prompted by a report of chafing marks on a wiring harness near the locking washer of the lateral control rod. The FAA is proposing this AD to address chafing marks on a wiring harness near the locking washer of the lateral control rod, which if not addressed, could result in in-flight loss of the hoist load and possible personal injury, or could generate a burning smell and possible need for the flight crew to implement the applicable emergency procedure. See EASA AD 2020–0246 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0246 requires an inspection of the wiring harness and the routing of the wiring harness for discrepancies (includes damaged wire harnesses and insufficient clearances) and corrective actions (includes repair of wire harnesses and re-routing the wire harness) if necessary, and an update of the Aircraft Maintenance Programme (AMP) to incorporate certain tasks. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0246, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2020–0246 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0246 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2020–0246 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2020–0246. Service information required by EASA AD 2020–0246 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0779 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

EASA AD 2020–0246 requires revising the ''Aircraft Maintenance Programme (AMP),'' whereas this proposed AD would not because not all U.S. operators are required to have a maintenance program.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 31 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	$0	$85	$2,635

The FAA estimates the following costs to do any necessary repairs and re-routing that would be required based on the results of the proposed inspection. The agency has no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repairs and re-routing	Up to 1 work-hour × $85 per hour = $85	$0 *	$85

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2021–0779; Project Identifier MCAI–2020–01505–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0246, dated November 10, 2020 (EASA AD 2020–0246).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 2597, Equip/Furnishing System Wiring.

(e) Unsafe Condition

This AD was prompted by a report of chafing marks on a wiring harness near the locking washer of the lateral control rod. The FAA is issuing this AD to address chafing marks on a wiring harness near the locking washer of the lateral control rod. The unsafe condition, if not addressed, could result in in-flight loss of the hoist load and possible personal injury, or could generate a burning smell and possible need for the flight crew to implement the applicable emergency procedure.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0246.

(h) Exceptions to EASA AD 2020–0246

(1) Where EASA AD 2020–0246 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2020–0246 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where Paragraph (3) of EASA AD 2020–0246 specifies to update the Aircraft Maintenance Programme (AMP) with certain tasks included in the service information referenced by EASA AD 2020–0246, this AD does not include that requirement.

(4) This AD does not require the ''Remarks'' section of EASA AD 2020–0246.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the actions of this AD can be performed, provided that no debris from chafing is visible that would allow jamming or fouling of the flight controls, the chafing does not interfere with the flight controls by jamming or fouling, and the systems impacted by the wiring harness are rendered inoperable by collaring the circuit breaker.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For EASA AD 2020–0246, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu*. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0779.

(2) For more information about this AD, contact Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: (817) 222–4130; email: *jacob.fitch@faa.gov.*

Issued on September 2, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19614 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2020–0611; FRL–8781–01–R4]

Alabama: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Alabama (Alabama or State) has applied to the Environmental Protection Agency (EPA) for final approval of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is proposing to approve revisions to Alabama's UST Program. This action is based on the EPA's determination that the State's revisions satisfy all requirements for UST program approval. This action also proposes to codify Alabama's revised UST Program and to incorporate by reference the State statutes and regulations that we have determined meet the requirements for approval.

DATES: Comments on this proposed rule must be received on or before October 14, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R04–UST–2020–0611, by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: self.terry@epa.gov.* Include the Docket ID No. EPA–R04–UST–2020–0611 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2020–0611, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and

should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *https://www.epa.gov/dockets/commenting-epa-dockets.*

Out of an abundance of caution for members of the public and our staff, the public's access to the EPA Region 4 Offices is by appointment only to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov* or via email. The EPA encourages electronic comment submittals, but if you are unable to submit electronically or need other assistance, please contact Terry Self, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index of the docket and all publicly available docket materials for this action are available for review on the *https://www.regulations.gov* website. The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Terry Self to schedule an appointment to view the documents at the Region 4 Offices. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. EPA Region 4 requires all visitors to adhere to the COVID–19 protocol. Please contact Terry Self for the COVID–19 protocol requirements for your appointment.

Please also contact Terry Self if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT: Terry Self, RCRA Programs and Cleanup Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–9396, email address: *self.terry@epa.gov.* Please contact Terry Self by phone or email for further information.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

List of Subjects in 40 CFR Parts 281 and 282

Administrative practice and procedure, Environmental protection, Hazardous substances, Incorporation by reference, Indian country, Petroleum, Reporting and recordkeeping requirements, State program approval, and Underground storage tanks.

Authority: This document is issued under the authority of sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: August 30, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

[FR Doc. 2021–19181 Filed 9–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2021–0485; FRL–8922–01–OLEM]

Proposed Deletion From the National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a proposed rule to delete the Beckman Instruments site from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state, through its designated state agency, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments regarding this proposed action must be submitted on or before October 14, 2021.

ADDRESSES: EPA has established a docket for this action under the Docket Identification number included in Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document. Submit your comments, identified by the appropriate Docket ID number, by one of the following methods:

- *https://www.regulations.gov.* Follow online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*
- *Email:* Table 2 in the **SUPPLEMENTARY INFORMATION** section of this document provides an email address to submit public comments for the proposed deletion action.

Instructions: Direct your comments to the Docket Identification number included in Table 1 in the Supplementary Information section of this document. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: EPA has established a docket for this action under the Docket Identification included in Table 1 in the Supplementary Information section of this document. 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.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the corresponding Regional Records Center. Location, address, and phone number of the Regional Records Centers follows.

Regional Records Center:

• Region 9 (AZ, CA, HI, NV, AS, GU, MP), email: *R9records@epa.gov,* 415/947–8717.

The EPA is temporarily suspending Regional Records Centers for public visitors to reduce the risk of transmitting COVID–19. Information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT:

• Holly Hadlock, U.S. EPA Region 9, *Hadlock.holly@epa.gov,* 415/972–3171.

• Chuck Sands, U.S. EPA Headquarters, *sands.charles@epa.gov,* 703/603–8857.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

EPA is issuing a proposed rule to delete the Beckman Instruments site from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the NCP, which EPA created under section 105 of the CERCLA statute of 1980, as amended. EPA maintains the NPL as those sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III of this document discusses procedures that EPA is using for this action. Section IV of this document discusses the site proposed for deletion and demonstrates how it meets the deletion criteria, including reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to the deletion of the site in this proposed rule:

(1) EPA consulted with the respective state before developing this proposed action for deletion.

(2) EPA has provided the state 30 working days for review of this proposed action prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The state, through their designated state agency, has concurred with the proposed deletion action.

(5) Concurrently, with the publication of this proposed action deletion in the **Federal Register**, a notice is being published in two major local newspapers, the Porterville Recorder, and the Noticiero Semanal. The newspapers announce the 30-day public comment period concerning the proposed action for deletion.

(6) The EPA placed copies of documents supporting the proposed deletion in the deletion docket, made these items available for public inspection, and copying at the Regional Records Center identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to delete the site. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the site, the EPA will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any

individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Full Site or Partial Site Deletion

The site to be deleted from the NPL, the location of the site, and docket number with information including reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete is specified in Table 1. The NCP permits activities to occur at a deleted site or that media or parcel of a partially deleted site, including operation and maintenance of the remedy, monitoring, and five-year reviews. These activities for the site are entered in Table 1, if applicable, under Footnote such that; 1 = site has continued operation and maintenance of the remedy, 2 = site receives continued monitoring, and 3 = site five-year reviews are conducted.

TABLE 1

Site name	City/county, state	Type	Docket no.	Footnote
Beckman Instruments	Porterville, CA	Full	EPA–HQ–SFUND–2021–0485	

Table 2 includes information concerning whether the full site is proposed for deletion from the NPL or a description of the area, media or Operable Units (OUs) of the NPL site proposed for partial deletion from the NPL, and an email address to which public comments may be submitted if the commenter does not comment using *https://www.regulations.gov.*

TABLE 2

Site name	Full site deletion (full) or media/parcels/ description for partial deletion	Email address for public comments
Beckman Instruments	Full	*Hadlock.holly@epa.gov.*

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1251 *et seq.;* 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: September 2, 2021.

Larry Douchand,

Office Director, Office of Superfund Remediation and Technology Innovation.

[FR Doc. 2021–19449 Filed 9–13–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401 and 404

[USCG–2021–0431]

RIN 1625–AC70

Great Lakes Pilotage Rates—2022 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: In accordance with the statutory provisions enacted by the Great Lakes Pilotage Act of 1960, the Coast Guard is proposing new base pilotage rates for the 2022 shipping season. This proposed rule would adjust the pilotage rates to account for changes in district operating expenses, an increase in the number of pilots, and anticipated inflation. In addition, this proposed rule would make a policy change to always round up in the staffing model. The Coast Guard is also proposing methodology changes to factor in an apprentice pilot's compensation benchmark for the estimated number of apprentice pilots with a limited registration. The Coast Guard estimates that this proposed rule would result in a 12-percent increase in pilotage operating costs compared to the 2021 season.

DATES: Comments and related material must be received by the Coast Guard on or before October 14, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0431 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Brian Rogers, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1535, email *Brian.Rogers@uscg.mil,* or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments
II. Abbreviations
III. Executive Summary
IV. Basis and Purpose
V. Background
VI. Discussion of Proposed Methodological and Other Changes
A. Proposed Changes to the Staffing Model

B. Apprentice Pilots' Wage Benchmark for Conducting Pilotage While Using a Limited Registration
C. Apprentice Pilots' Expenses and Benefits as Approved Operating Expenses
VII. Discussion of Proposed Rate Adjustments

District One

A. Step 1: Recognize Previous Operating Expenses
B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation
C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots
D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark
E. Step 5: Project Working Capital Fund
F. Step 6: Project Needed Revenue
G. Step 7: Calculate Initial Base Rates
H. Step 8: Calculate Average Weighting Factors by Area
I. Step 9: Calculate Revised Base Rates
J. Step 10: Review and Finalize Rates

District Two

A. Step 1: Recognize Previous Operating Expenses
B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation
C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots
D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark
E. Step 5: Project Working Capital Fund
F. Step 6: Project Needed Revenue
G. Step 7: Calculate Initial Base Rates
H. Step 8: Calculate Average Weighting Factors by Area
I. Step 9: Calculate Revised Base Rates
J. Step 10: Review and Finalize Rates

District Three

A. Step 1: Recognize Previous Operating Expenses
B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation
C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots
D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark
E. Step 5: Project Working Capital Fund
F. Step 6: Project Needed Revenue
G. Step 7: Calculate Initial Base Rates
H. Step 8: Calculate Average Weighting Factors by Area
I. Step 9: Calculate Revised Base Rates
J. Step 10: Review and Finalize Rates
VIII. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0431 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

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

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

Public meeting. We do not plan to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

APA American Pilots' Association
BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
CPA Certified public accountant
CPI Consumer Price Index
DHS Department of Homeland Security
Director U.S. Coast Guard's Director of the Great Lakes Pilotage
ECI Employment Cost Index
FOMC Federal Open Market Committee
FR Federal Register
GLPA Great Lakes Pilotage Authority (Canadian)
GLPMS Great Lakes Pilotage Management System
LPA Lakes Pilots Association
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
PCE Personal Consumption Expenditures
Q4 Fourth quarter
§ Section
SBA Small Business Administration
SLSPA Saint Lawrence Seaway Pilotage Association
U.S.C. United States Code
WGLPA Western Great Lakes Pilots Association

III. Executive Summary

Pursuant to 46 U.S.C. Chapter 93,[1] the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes and St. Lawrence Seaway—including setting the rates for pilotage services and adjusting them on an annual basis for the upcoming shipping season. The shipping season begins when the locks open in the St. Lawrence Seaway, which allows traffic access to and from the Atlantic Ocean. The opening of the locks varies annually depending on waterway conditions but is generally in March or April. The rates, which for the 2021 season range from $337 to $800 per pilot hour (depending on which of the specific six areas pilotage service is provided), are paid by shippers to the pilot associations. The three pilot associations, which are the exclusive U.S. source of registered pilots on the Great Lakes, use this revenue to cover operating expenses, maintain infrastructure, compensate apprentice pilots (previously referred to as applicants) and registered pilots, acquire and implement technological advances, train new personnel, and allow partners to participate in professional development.

In accordance with statutory and regulatory requirements, we have employed a ratemaking methodology which was introduced originally in 2016. Our ratemaking methodology calculates the revenue needed for each pilotage association (operating expenses, compensation for the number of pilots, and anticipated inflation), and then divides that amount by the

[1] Title 46 of the United States Code (U.S.C.), Sections 9301–9308.

expected demand for pilotage services over the course of the coming year, to produce an hourly rate. We currently use a 10-step methodology to calculate rates. We explain in detail in the Discussion of Proposed Methodological and Other Changes in section VI of the preamble to this notice of proposed rulemaking (NPRM).

As part of our annual review, in this NPRM we are proposing new pilotage rates for 2022 based on the existing methodology. The Coast Guard estimates that this proposed rule would result in a 12-percent increase in pilotage operating costs compared to the 2021 season. The result would be an increase in rates for all areas in District One, District Three, and the undesignated area of District Two. The rate for the designated area of District Two would decrease. These proposed changes are largely due to a combination of three factors: (1) The addition of apprentice pilots to step 3 with a target wage of 36 percent of pilot target compensation (36 percent of the increase), (2) adjusting target pilot compensation for both the difference in past predicted and actual inflation and predicted future inflation (23 percent of the increase), and (3) the net addition of two registered pilots at the beginning of the 2022 shipping season (22 percent of the increase), one for the undesignated area of District One and one for the undesignated area of District Two. The other 19 percent of the increase results from differences in traffic levels between the 2018, 2019, and 2020 shipping seasons. The Coast Guard uses a 10-year average when calculating traffic to smooth out variations in traffic caused by global economic conditions, such as those caused by the COVID–19 pandemic. The overall 12-percent increase in revenue needed is consistent with the increases from the 2019 [2] and 2018 [3] rules, which increased rates by 11 percent and 13 percent respectively, though greater than the increases in the last 2 years.

The Coast Guard is also proposing one policy change and one change to the ratemaking methodology. First, the Coast Guard proposes to change the way we determine how many pilots are needed for the upcoming season in the staffing model (Volume 82 of the **Federal Register** (FR) at Page 41466, and table 6 at Page 41480, August 31, 2017), by always rounding up the final number to the nearest whole number. Second, we also propose to include in the methodology a calculation for a wage benchmark for apprentice pilots conducting pilotage on a limited registration issued by the Director. Although it is not a change to existing ratemaking policy, we are proposing to list apprentice pilot operating expenses within the approved operating expenses in § 404.2 ''Procedure and criteria for recognizing association expenses,'' used in step 1 of the rulemaking. These operating expenses have been included in past ratemakings and this is a codification of existing policy in order to distinguish apprentice pilot expenses from apprentice pilot wages.

Based on the ratemaking model discussed in this NPRM, we are proposing the rates shown in table 1.

TABLE 1—CURRENT AND PROPOSED PILOTAGE RATES ON THE GREAT LAKES

Area	Name	Final 2021 pilotage rate	Proposed 2022 pilotage rate
District One: Designated	St. Lawrence River	$800	$818
District One: Undesignated	Lake Ontario	498	557
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	580	574
District Two: Undesignated	Lake Erie	566	651
District Three: Designated	St. Marys River	586	685
District Three: Undesignated	Lakes Huron, Michigan, and Superior	337	375

This proposed rule would affect 56 U.S. Great Lakes pilots, 3 pilot associations, and the owners and operators of an average of 293 oceangoing vessels that transit the Great Lakes annually. This proposed rule is not economically significant under Executive Order 12866 and would not affect the Coast Guard's budget or increase Federal spending. The estimated overall annual regulatory economic impact of this rate change is a net increase of $3,527,425 in estimated payments made by shippers during the 2022 shipping season. This NPRM establishes the 2022 yearly compensation for pilots on the Great Lakes at $393,461 per pilot (a 3.8 percent increase over their 2021 compensation). Because the Coast Guard must review, and, if necessary, adjust rates each year, we analyze these as single-year costs and do not annualize them over 10 years. Section VIII of this preamble provides the regulatory impact analyses of this proposed rule.

IV. Basis and Purpose

The legal basis of this rulemaking is 46 U.S.C. Chapter 93,[4] which requires foreign merchant vessels and U.S. vessels operating ''on register'' (meaning U.S. vessels engaged in foreign trade) to use U.S. or Canadian pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[5] For U.S. Great Lakes pilots, the statute requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' [6] The statute requires that rates be established or reviewed and adjusted each year, not later than March 1.[7] The statute also requires that base rates be established by a full ratemaking at least once every 5 years, and, in years when base rates are not established, they must be reviewed and, if necessary, adjusted.[8] The Secretary's duties and authority under 46 U.S.C. Chapter 93 have been delegated to the Coast Guard.[9]

The purpose of this NPRM is to propose new pilotage rates for the 2022 shipping season. The Coast Guard believes that the proposed new rates will continue to promote our goal as outlined in title 46 of the Code of Federal Regulations (CFR), section 404.1

[2] 84 FR 20551, 20573 (May 10, 2019), *https://www.regulations.gov/document/USCG-2018-0665-0012.*

[3] 83 FR 26162, 26189 (June 5, 2018), *https://www.regulations.gov/document/USCG-2017-0903-0011.*

[4] 46 U.S.C. 9301–9308.

[5] 46 U.S.C. 9302(a)(1).

[6] 46 U.S.C. 9303(f).

[7] *Id.*

[8] *Id.*

[9] DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(f).

of promoting safe, efficient, and reliable pilotage service in the Great Lakes by generating for each pilotage association sufficient revenue to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide appropriate profit to use for improvements.

V. Background

Pursuant to 46 U.S.C. 9303, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority (GLPA), regulates shipping practices and rates on the Great Lakes. Under Coast Guard regulations, all vessels engaged in foreign trade (often referred to as ''salties'') are required to engage U.S. or Canadian pilots during their transit through the regulated waters.[10] U.S. and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not affected.[11] Generally, vessels are assigned a U.S. or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services. The GLPA establishes the rates for Canadian registered pilots.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard's Director of the Great Lakes Pilotage (''the Director'') to operate a pilotage pool. The Saint Lawrence Seaway Pilotage Association (SLSPA) provides pilotage services in District One, which includes all U.S. waters of the St. Lawrence River and Lake Ontario. The Lakes Pilots Association (LPA) provides pilotage services in District Two, which includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. Finally, the Western Great Lakes Pilots Association (WGLPA) provides pilotage services in District Three, which includes all U.S. waters of the St. Marys River; Sault Ste. Marie Locks; and Lakes Huron, Michigan, and Superior.

Each pilotage district is further divided into ''designated'' and ''undesignated'' areas, depicted in table 2 below. Designated areas, classified as such by Presidential Proclamation, are waters in which pilots must be fully engaged in the navigation of vessels in their charge at all times.[12] Undesignated areas, on the other hand, are open bodies of water not subject to the same pilotage requirements. While working in undesignated areas, pilots must ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' [13] For these reasons, pilotage rates in designated areas can be significantly higher than those in undesignated areas.

TABLE 2—AREAS OF THE GREAT LAKES AND ST. LAWRENCE SEAWAY

District	Pilotage association	Designation	Area No.[14]	Area name[15]
One	Saint Lawrence Seaway Pilotage Association.	Designated	1	St. Lawrence River.
		Undesignated	2	Lake Ontario.
Two	Lakes Pilots Association	Designated	5	Navigable waters from Southeast Shoal to Port Huron, MI.
		Undesignated	4	Lake Erie.
Three	Western Great Lakes Pilots Association	Designated	7	St. Marys River.
		Undesignated	6	Lakes Huron and Michigan.
		Undesignated	8	Lake Superior.

Each pilot association is an independent business and is the sole provider of pilotage services in the district in which it operates. Each pilot association is responsible for funding its own operating expenses, maintaining infrastructure, compensating pilots and apprentice pilots, acquiring and implementing technological advances, and training personnel and partners. The Coast Guard developed a 10-step ratemaking methodology to derive a pilotage rate, based on the estimated amount of traffic, which covers these expenses.[16] The methodology is designed to measure how much revenue each pilotage association would need to cover expenses and provide competitive compensation goals to registered pilots. Since the Coast Guard cannot guarantee demand for pilotage services, target pilot compensation for registered pilots is a goal. The actual demand for service dictates the actual compensation for the registered pilots. We then divide that amount by the historic 10-year average for pilotage demand. We recognize that in years where traffic is above average, pilot associations will accrue more revenue than projected, while in years where traffic is below average, they will take in less. We believe that over the long term, however, this system ensures that infrastructure will be maintained and that pilots will receive adequate compensation and work a reasonable number of hours, with adequate rest between assignments, to ensure retention of highly trained personnel.

Over the past 5 years, the Coast Guard has adjusted the Great Lakes pilotage ratemaking methodology per our authority in 46 U.S.C. 9303(f) to conduct annual reviews of base pilotage rates, and make adjustments to such base rates, in each intervening year in consideration of the public interest and the costs of providing the services. In 2016, we made significant changes to the methodology, moving to an hourly billing rate for pilotage services and changing the compensation benchmark to a more transparent model. In 2017, we added additional steps to the ratemaking methodology, including new steps that accurately account for the additional revenue produced by the application of weighting factors (discussed in detail in Steps 7 through 9 for each district, in section VII of this preamble). In 2018, we revised the methodology by which we develop the compensation benchmark, based upon U.S. mariners rather than Canadian working pilots. In 2020, we revised the methodology to accurately capture all of

[10] See 46 CFR part 401.

[11] 46 U.S.C. 9302(f). A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

[12] Presidential Proclamation 3385, *Designation of restricted waters under the Great Lakes Pilotage Act of 1960,* December 22, 1960.

[13] 46 U.S.C. 9302(a)(1)(B).

[14] Area 3 is the Welland Canal, which is serviced exclusively by the Canadian GLPA and, accordingly, is not included in the U.S. pilotage rate structure.

[15] The areas are listed by name at 46 CFR 401.405.

[16] 46 CFR part 404.

the costs and revenues associated with Great Lakes pilotage requirements and produce an hourly rate that adequately and accurately compensates pilots and covers expenses. The current methodology was finalized in the Great Lakes Pilotage Rates—2021 Annual Review and Revisions to Methodology final rule (86 FR 14184, March 12, 2021). The 2021 ratemaking changed the inflation calculation in Step 4, § 404.104(b) for interim ratemakings, so that the previous year's target compensation value is first adjusted by actual inflation value using the Employment Cost Index (ECI). The 2021 final rule also excluded legal fees incurred in lawsuits against the Coast Guard related to our ratemaking and oversight from pilots associations' approved operating expenses. We summarize the proposed methodology in the section below.

Summary of the Ratemaking Methodology

As stated above, the ratemaking methodology, outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate, determined separately for each of the areas administered by the Coast Guard.

In Step 1, ''Recognize previous operating expenses,'' (§ 404.101) the Director reviews audited operating expenses from each of the three pilotage associations. Operating expenses include all allowable expenses minus wages and benefits. This number forms the baseline amount that each association is budgeted. Because of the time delay between when the association submits raw numbers and the Coast Guard receives audited numbers, this number is 3 years behind the projected year of expenses. Therefore, in calculating the 2022 rates in this proposal, we begin with the audited expenses from the 2019 shipping season.

While each pilotage association operates in an entire district (including both designated and undesignated areas), the Coast Guard tries to determine costs by area. With regard to operating expenses, we allocate certain operating expenses to designated areas, and certain operating expenses to undesignated areas. In some cases, we can allocate the costs based on where they are actually accrued. For example, we can allocate the costs for insurance for apprentice pilots who operate in undesignated areas only. In other situations, such as general legal expenses, expenses are distributed between designated and undesignated waters on a *pro rata* basis, based upon the proportion of income forecasted from the respective portions of the district.

In Step 2, ''Project operating expenses, adjusting for inflation or deflation,'' (§ 404.102) the Director develops the 2022 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors are from the Bureau of Labor Statistics' (BLS) Consumer Price Index (CPI) for the Midwest Region, or, if not available, the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. This step produces the total operating expenses for each area and district.

In Step 3, ''Estimate number of registered pilots and apprentice pilots,'' (§ 404.103) the Director calculates how many pilots are needed for each district. To do this, we employ a ''staffing model,'' described in § 401.220, paragraphs (a)(1) through (a)(3), to estimate how many pilots would be needed to handle shipping during the beginning and close of the season. This number is helpful in providing guidance to the Director in approving an appropriate number of pilots.

For the purpose of the ratemaking calculation, we determine the number of pilots provided by the pilotage associations (see § 404.103) and use that figure to determine how many pilots need to be compensated via the pilotage fees collected.

In Step 3, in this NPRM we propose adding an estimate for the number of apprentice pilots with limited registrations in each district. This number of apprentice pilots with limited registrations would be used in Step 4 to calculate an allowable wage benchmark for the districts to claim in the ratemaking. The Director would use the number of applications for apprentice pilots, traffic projections, information provided by the pilotage association regarding upcoming retirements, and any other relevant data input in determining the total number of apprentice pilots with limited registrations. See the Discussion of Proposed Methodological and Other Changes at section VI of this preamble for a detailed description of the changes proposed.

In the first part of Step 4, ''Determine target pilot compensation benchmark and apprentice pilot wage benchmark,'' (§ 404.104) the Director determines the revenue needed for pilot compensation in each area and district. In 2020, the Coast Guard updated the benchmark compensation model in accordance with § 404.104(b), switching from using the American Maritime Officers Union's 2015 aggregated wage and benefit information to the 2019 compensation benchmark. Based on experience over the past two ratemakings, the Coast Guard has determined that the level of target pilot compensation for those years provides an appropriate level of compensation for American Great Lakes pilots. Therefore, the Coast Guard will not seek alternative benchmarks for target compensation for future ratemakings at this time, and will instead simply adjust the amount of target pilot compensation for inflation. This benchmark has advanced the Coast Guard's goals of safety through rate and compensation stability while also promoting recruitment and retention of qualified U.S. pilots.

In the 2021 ratemaking, the Coast Guard changed the way we calculate inflation in Step 4 to account for actual inflation instead of predicted inflation. In § 404.104(b), the previous year's target compensation value is first adjusted by actual inflation using the ECI inflation value. If the ECI inflation value is not available, § 404.104(b)(1) and (2) specify the compensation inflation process the Director will use instead.

In the second part of Step 4, set forth in § 404.104(c), the Director determines the total compensation figure for each district. To do this, the Director multiplies the compensation benchmark by the number of pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

This proposed rule would add an apprentice pilot wage benchmark to Step 4. The apprentice pilot wage benchmark would be set at 36 percent of individual target pilot compensation, as calculated in this section. The apprentice pilot wage benchmark would then be multiplied by the number of apprentice pilots with limited registrations for each district, producing a figure for total apprentice pilot wage. See the Discussion of Proposed Methodological and Other Changes at section VI of this preamble for a detailed description of the changes proposed.

In Step 5, ''Project working capital fund,'' (§ 404.105) the Director calculates a value that is added to pay for needed capital improvements and other non-recurring expenses, such as technology investments and infrastructure maintenance. This value is calculated by adding the total operating expenses (derived in Step 2) to the total pilot compensation and total target apprentice pilot wage (derived in

Step 4), and multiplying that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities. This figure constitutes the ''working capital fund'' for each area and district.

In Step 6, ''Project needed revenue,'' (§ 404.106) the Director simply adds up the totals produced by the preceding steps. The projected operating expense for each area and district (from Step 2) is added to the total pilot compensation, including apprentice pilot wage benchmarks, (from Step 4) and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the ''needed revenue.''

In Step 7, ''Calculate initial base rates,'' (§ 404.107) the Director calculates an hourly pilotage rate to cover the needed revenue as calculated in Step 6. This step consists of first calculating the 10-year hours of traffic average for each area. Next, we divide the revenue needed in each area (calculated in Step 6) by the 10-year hours of traffic average to produce an initial base rate.

An additional element, the ''weighting factor,'' is required under § 401.400. Pursuant to that section, ships pay a multiple of the ''base rate'' as calculated in Step 7 by a number ranging from 1.0 (for the smallest ships, or ''Class I'' vessels) to 1.45 (for the largest ships, or ''Class IV'' vessels). As this significantly increases the revenue collected, we need to account for the added revenue produced by the weighting factors to ensure that shippers are not overpaying for pilotage services. We do this in the next step.

In Step 8, ''Calculate average weighting factors by Area,'' (§ 404.108) the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of the applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, ''Calculate revised base rates,'' (§ 404.109) the Director modifies the base rates by accounting for the extra revenue generated by the weighting factors. We do this by dividing the initial pilotage rate for each area (from Step 7) by the corresponding average weighting factor (from Step 8), to produce a revised rate.

In Step 10, ''Review and finalize rates,'' (§ 404.110) often referred to informally as ''Director's discretion,'' the Director reviews the revised base rates (from Step 9) to ensure that they meet the goals set forth in 46 U.S.C. 9303(f) and 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; compensating trained and rested pilots fairly; and providing appropriate profit for improvements.

After the base rates are set, § 401.401 permits the Coast Guard to apply surcharges. In previous ratemakings where apprentice pilot wages were not built into the rate, the Coast Guard used surcharges to cover applicant pilot compensation in those years to help with recruitment. In 2019, $1,202,635 in surcharges were collected by the three districts. Consistent with the 2020 and 2021 rulemakings, we continue to believe that the pilot associations are now able to plan for the costs associated with retirements without relying on the Coast Guard to impose surcharges.

VI. Discussion of Proposed Methodological and Other Changes

For 2022, the Coast Guard is proposing one policy change to the ratemaking model and a methodological change to incorporate apprentice pilot wage benchmarks into the ratemaking methodology. The first proposed policy change is to always round up the pilot totals to the nearest whole number in the staffing model. We use the staffing model to determine how many pilots are needed in Step 3. Second, we are proposing to introduce a wage benchmark calculation for apprentice pilots conducting pilotage while using a limited registration in Steps 3 and 4 of the methodology. While not a change to the ratemaking, this proposed rule would also codify the current practice of allowing pilot associations to include necessary and reasonable apprentice pilot benefits and expenses as operating expenses for the year they are incurred.

A. Proposed Changes to the Staffing Model

The Director uses the staffing model to estimate how many pilots would be needed to handle shipping from the opening through the closing of the season. The Coast Guard is proposing to always round up the final number in the staffing model in § 401.220(a)(2) to the nearest whole integer, instead of the current requirement to round to the nearest whole integer. The final number provides the maximum number of pilots authorized to be included in the ratemaking for a district.

The Coast Guard proposed a similar change to the staffing model in the 2021 proposed rule titled ''Great Lakes Pilotage Rates—2021 Annual Review and Revisions to Methodology'' (85 FR 68210, October 27, 2020). We opted to forgo the proposed change to the rounding in the staffing model in the 2021 ratemaking final rule to more closely consider the alternatives and staffing issues mentioned by the commenters, posted in docket USCG–2020–0457.

After consideration of the comments and issues discussed further in this section, the Coast Guard has determined that rounding up in the staffing model is a necessary change, but we are proposing an additional modification. In addition to always rounding up from the staffing model, we also propose that when the rounding up results in an additional pilot that would not have been authorized if we rounded to the nearest whole integer, that additional pilot would be added to the number of pilots in the undesignated area for that district.[17] For example, if the total in a district is 17.25, we would round up to 18 under the proposed changes, and the additional pilot would be allocated to the undesignated area. If the total in a district is 17.55, we would authorize 18 pilots and we would not change existing allocations.

The purpose for placing the additional pilot in undesignated waters is to reduce the impact of the additional pilot on the final rates. Allocating additional pilots to the undesignated waters in the ratemaking methodology would result in only incremental changes, which promotes rate stability. Rate stability is in the public interest, because it provides greater predictability to both shipping companies and the pilots. Undesignated waters have lower rates for pilotage services than designated waters, because the average number of bridge hours is greater (denominator), which allows the operating expenses for those areas to be spread out over a greater number. Registered pilots in a district perform pilotage in both designated and undesignated waters. For ratemaking purposes, we assign pilots to either designated or undesignated waters to calculate the rates in each area. For ratemaking purposes, we assign pilots to either designated or undesignated waters to calculate the rates in each area.

In the 2021 proposed rule, the Coast Guard acknowledged that the staffing model used in the ratemaking could be improved to account for registered pilots who are not performing pilotage full time. As we noted in the 2021 proposed rule, pilot associations have made assertions that the pilot

[17] For a detailed calculation of the staffing model, see 82 FR 41466, table 6 at 41480 (August 31, 2017).

associations' presidents are spending more time at meetings, conferences, traveling, and facilitating communication between the pilots and Coast Guard. We continue to acknowledge that the pilot associations' presidents are not able to serve as pilots full-time due to their administrative duties and this continues to be the main reason for no longer rounding down the final number for some districts. The non-delegable administrative duties include attending meetings and conferences, providing additional financial and traffic information to increase transparency and accountability, overseeing and ensuring the integrity of their training program, evaluating technology, and coordinating with the American Pilots' Association (APA) to implement and share best practices. Rounding down to the nearest integer in the current staffing model could result in too few pilots allocated to a district which, when coupled with the president's spending less time serving as pilot, may adversely impact recuperative rest goals for registered pilots that are essential for safe navigation.

The staffing model addresses the historic traffic at the opening and closing of the season. During this time, the Director has historically authorized or imposed double pilotage in the designated waters due to ice conditions, a lack of aids to navigation, and violent and volatile weather conditions, because the transits are likely to exceed the Coast Guard's tolerance for safety with a single pilot. Pilotage demand reaches peaks during the opening and close of the seasons, which is also when pilot presidents are performing many nondelegable duties. The pilot association president's participation is required during various coordination meetings at the opening and closing of the shipping season, which reduces their availability to provide pilotage services. These meetings include coordination with the U.S. and Canadian Seaways, the GLPA, Shipping Federation of Canada, U.S. Great Lakes Shipping Association, and various U.S. and Canadian Great Lakes ports. Rounding up will ensure that the pilot president is free to participate in these meetings and the associations have sufficient strength to handle the burden of double pilotage.

One comment representing the shipping industry on the 2021 ratemaking proposed rule requested that we authorize an administrative position for each district to account for these increased duties. We rejected the proposal to add an administrative position in the 2021 ratemaking, because we thought it was inconsistent with industry standards and insufficient to address the problems identified by the associations. Many of the presidential duties are non-delegable to administrative staff, and the president would still be pulled away from providing pilotage services. Authorizing an administrative person instead of additional pilot would not address the recuperative rest impacts and potential for lack of pilots when needed.

The APA comment [18] and other commenters affirmed that there is always one pilot ''off the roles'' in each association. Similarly, in its comments, the SLSPA emphasized it is impossible to operate as a president and pilot a vessel at the same time and with no opportunity to rest. The APA comment urged the Coast Guard to consider authorizing an additional pilot for each district, whose principal duties would be to serve as an ''operations pilot.'' The comment said pilots on ships, as well as dispatchers and transportation coordinators, need operational support available in real time from a seasoned and experienced piloting professional. This professional is currently the association president or the suggested extra operations pilot. The APA comment expressed that piloting expertise is necessary to perform these duties, and that the associations' president pilot should be replaced with a pilot, not administrative staff. The president is unable to delegate certain administrative duties that keep him from piloting a vessel. This comment was in alignment with responses we received from other pilot industry comments.

The Coast Guard agrees that, where the pilot associations' presidents are spending an increased amount of their time on administrative issues, the staffing model should account for that time and allow for additional staff to assist by rounding up the final total for each district. However, the Coast Guard does not agree with some comments on the 2021 NPRM that an additional operational pilot is necessary in addition to rounding up in the staffing model. Authorizing an additional operational pilot, in addition to rounding up, would authorize two additional pilots in some cases. Two additional pilots would be more pilots than necessary to address the need presented by the association's president not performing pilotage services full-time.

Some comments from the 2021 ratemaking proposed rule included concerns that the staffing model could produce lower or fluctuating numbers in upcoming years, even with always rounding up, taking away previously authorized pilots. However, the staffing model does not change year-to-year, unless we make changes to the staffing model in a ratemaking. Based on the existing staffing model and the proposed change to always round up the final number, the number of pilots authorized would not decrease in future years, unless adjusted by ratemaking.

The staffing model takes into consideration trends in traffic demand, ensuring that the number of pilots is sufficient to meet demand. The existing staffing model is designed to provide sufficient pilots for the entire shipping season while taking into account the amount of traffic anticipated, restorative rest periods for the pilots, and additional capacity during surges at the opening and closing of the shipping season. During the opening and closing of the season, the weather tends to be more severe; ice conditions affect transit times; and the aids to navigation are not in place. During this time, double pilotage occurs in designated waters to mitigate external factors and to ensure safety. This is also a time that the pilot association presidents are performing non-delegable duties, coordinating with the Coast Guard, the GLPA, U.S. and Canadian Seaway, and numerous other Great Lakes shipping stakeholders to ensure safe, efficient, and reliable pilotage service. Always rounding up allows us to account for this time and promote safety and restorative rest, while minimizing delays in providing pilotage services, for districts where we previously would have rounded the final number down. We cannot continue to round down for some districts and undersupply pilots where the staffing model indicates more are needed. By rounding up the staffing model final number, we ensure that we are always authorizing a sufficient number to cover the demand calculated according to the staffing model, which has been in place for many years. The purpose of always rounding up where we otherwise would have rounded down is to account for the association's president time spent away from pilotage duties, especially during the high demand for pilotage during the beginning and close of the shipping seasons. We believe this proposed rounding change will promote maritime safety by ensuring enough pilots are allocated to each district to cover the hours the association's president spends engaged in the non-pilot tasks and the administrative work discussed above.

[18] *https://www.regulations.gov/document?D=USCG-2020-0457-0007.*

B. Apprentice Pilots' Wage Benchmark for Conducting Pilotage While Using a Limited Registration

In this NPRM, the Coast Guard is proposing to factor in the apprentice pilots wage benchmark in the ratemaking methodology, Steps 3 and 4. The wage benchmark would be applicable to apprentice pilots operating under a limited registration.

In Step 3, § 404.103, the Director would project the number of apprentice pilots with limited registrations expected to be in training and compensated. The Director would consider the number of persons applying under 46 CFR part 401 to become apprentice pilots, traffic projections, information provided by the pilotage association regarding upcoming retirements, and any other relevant data.

In Step 4, § 404.104, the Director would determine the individual apprentice pilot wage benchmark at the rate of 36 percent of the individual target pilot compensation, as calculated according to Step 4. The Director would determine each pilot association's total apprentice pilot wage benchmark by multiplying the apprentice pilot wage benchmark by the number of apprentice pilots with limited registrations projected under § 404.103. For example, if the projected number of apprentice pilots is 4, we would first take 36 percent of individual target pilot compensation (example: $359,887 × 0.36 = $129,559) and multiply that by 4 (example: $129,559 × 4 = $518,237) to obtain the total apprentice pilot wage benchmark for each district. This process is based on the way we factor the fully registered pilot compensation into the ratemaking in existing Step 3 (§ 404.103) and Step 4 (§ 404.104) described in the Summary of the Ratemaking Methodology section above.

The Coast Guard proposes to set the apprentice pilot wage benchmark at a percentage of the target pilot compensation, rather than a specific dollar amount, to allow for inflation each year. We factor inflation into the target pilot compensation calculation during Step 4. We would take 36 percent of the inflated target pilot compensation to obtain the apprentice pilot wage benchmark value.

In ratemaking years 2016 through 2019, the Coast Guard authorized surcharges to cover the districts' apprentice pilot compensation. The Coast Guard never intended to use such surcharges as a permanent solution for compensating apprentice pilots, because the surcharge amounts were not derived from a formula that could take into consideration inflation and other reasonableness factors.

The purpose of the surcharges was to provide reimbursement to the associations so that they could immediately hire additional apprentice pilots, rather than waiting three years to be reimbursed in the rates. The Coast Guard used surcharges as a temporary method to help the districts with pilot hiring and retention issues. In those ratemaking years, the Coast Guard made many Director's adjustments to the authorized surcharges in order to ensure that the ratemaking reflected a reasonable amount in compensation.

In the 2020 and 2021 ratemakings, the Coast Guard acknowledged that the pilot associations were able to hire a sufficient number of apprentice pilots and fully registered pilots. In the 2020 and 2021 ratemakings, the Coast Guard authorized apprentice pilot salaries to be included in the association's operating expenses for 2017 and 2018, respectively. We allowed the apprentice pilot wage expenses to be included in the operating expenses after the districts' operating expenses were fully audited. In the 2021 ratemaking final rule, the Coast Guard reduced the 2018 apprentice pilot salary operating expense (referred to as applicant pilot in the 2021 ratemaking) for District One and District Two to $132,151 per apprentice pilot because they paid in excess of that amount (86 FR 14184, 14197, 14202, March 12, 2021). As District Three reported paying their apprentice pilots less than $132,151 per apprentice pilot each, no Director's adjustment was made.

The Coast Guard is proposing to set the apprentice pilot wage benchmark at 36 percent of individual target pilot compensation based on reasonable amounts previously allowed in past ratemakings. In the 2019 rulemaking, we adjusted apprentice pilot salaries to approximately 36 percent of target pilot compensation. In the 2019 NPRM, the Coast Guard proposed to make an adjustment to District Two's request for reimbursement of $571,248 for two applicant pilots ($285,624 per applicant). Instead of permitting $571,248 for two applicant pilots, we proposed allowing $257,566, or $128,783 per applicant pilot, based upon discussions with other pilot associations at the time. This standard went into effect in the final rule for 2019. In development of the 2021 proposed rule, we reached out to several of the pilot associations throughout the United States to see what percentage they pay their applicant pilots. We factored in the sea time and experience required to become an applicant pilot on the Great Lakes and discussed the percentage with each association to determine if it was fair and reasonable. For 2019, this was approximately 36 percent ($128,783 ÷ $359,887 = 35.78 percent). In the 2021 NPRM and final rule, the Coast Guard used the 36 percent benchmark for calculating each district's apprentice pilot compensation in its operating expenses.

The Coast Guard solicited comments in the 2021 ratemaking NPRM on setting apprentice pilot salaries at a percentage of the fully registered target pilot compensation and including it in the ratemaking (85 FR 68210, October 27, 2020). We received one pilot comment and a user coalition comment requesting that we return to the use of surcharges. The Coast Guard used surcharges to immediately reimburse apprentice pilot salaries to make improvements in hiring and retention of pilots in the districts. Going forward, authorizing apprentice pilot wages in the ratemaking continues to support hiring and retention in a way that is better calibrated to generate the specific amount of revenue needed, than providing a surcharge. The associations would be funded for apprentice pilot wages in the same year they are incurred, and the amount would be adjusted for inflation, along with the target pilot compensation. We are also interested in building the apprentice pilot salaries into the ratemaking for predictability and stability purposes. We previously authorized $150,000 per apprentice pilot when we used surcharges, but, in practice, that amount was reduced by Director's adjustments to reasonable amounts. The proposed apprentice pilot wage benchmark in the ratemaking would not be adjusted by Director's adjustments.

The other comments from the pilots were generally supportive of including the apprentice pilot salaries in the ratemaking, but urged the Coast Guard to consider setting the salaries at a higher percentage than 36 percent of the fully registered pilot compensation, or implementing a gradual percentage increase for additional years served. This 36 percent equation creates a number consistent with what some districts paid and were reimbursed for apprentice pilots in previous ratemaking years. It is also reasonable in amount, because it is only wages and would not include apprentice pilot benefits and travel reimbursements. Those additional benefits would be reimbursed in full as allowable operating expenses for the districts. In the 2021 ratemaking, District Three reported paying apprentice pilot salaries at an amount of $132,151 per apprentice pilot, and we considered that amount reasonable. At

36 percent of registered pilot target compensation, the apprentice pilots would be authorized wages in the amount of $129,559, which is reasonable in consideration of the time in training, services provided, and past ratemakings. This number would be subject to inflation annually. Additionally, setting apprentice pilot salaries at one amount, irrespective of years in training, is consistent with our past practices and will help promote rate stability and predictability for all parties. In past ratemakings, we have historically used the term ''applicant pilots'' as a collective way of referring to both applicant trainees and apprentice pilots. In this proposed rule, we are distinguishing how we will incorporate apprentice pilot wages into the ratemaking methodology from how we incorporate applicant trainees wages. To help clarify this distinction, this proposed rule would also add definitions for the terms ''apprentice pilot'' and ''limited registration'' in the definition section in § 401.110. An apprentice pilot would be defined as a person, approved and certified by the Director, who is participating in an approved U.S. Great Lakes pilot training and qualification program and meets all the minimum requirements listed in 46 CFR 401.211. The apprentice pilot definition would not include applicant trainees, who are pilots in training who have not acquired the minimum service requirements in § 401.210(a)(1). Under this proposed rule, salaries for applicant trainees would continue to be included in the district's operating expenses for the year they are incurred. The ''apprentice pilot'' definition would only be applicable in determining which pilots may be included in the apprentice pilot estimates, compensation, and operating expenses discussed in new §§ 404.2(b)(7), 404.103(b), and 404.104(d) and (e) of this proposed rule.

The apprentice pilot would be required to be operating with a limited registration to be eligible for inclusion in the wage benchmark calculations in Steps 3 and 4. A limited registration is currently used in the apprentice pilot training process in the districts, but it is not defined in the Great Lakes pilotage regulations. We propose adding a definition for ''limited registration'' that would align with the current use of the term in the industry. A limited registration would be defined as an authorization given by the Director, upon the request of the respective pilot association, to an apprentice pilot to provide pilotage service without direct supervision from a fully registered pilot in a specific area or waterway.

Apprentice pilots with limited registrations are performing the services of a pilot for the shipping industry, often without a fully registered pilot onboard. These apprentice pilots are providing pilotage services to the shipping industry for the rates set by the Coast Guard for the waterway. Compensating the apprentice pilots for these services has historically been considered a reasonable and necessary cost included in the ratemakings as either surcharges or operating expenses. However, instead of evaluating the apprentice pilot wages annually for reasonableness in the operating expenses, the Coast Guard is proposing to include a specific and predictable apprentice pilot wage benchmark calculation into the ratemaking.

C. Apprentice Pilots' Expenses and Benefits as Approved Operating Expenses

In § 404.2 ''Procedure and criteria for recognizing association expenses,'' we propose to insert the pilot association's expenses for apprentice pilots operating with limited registrations as approved operating expenses. These expenses have historically been allowed in previous ratemakings' operating expenses. We are proposing to specifically list apprentice pilot with limited registrations expenses in the regulations to codify current practices and distinguish these expenses from the apprentice pilot wage benchmark that we propose to include in Step 4 of the ratemaking methodology.

The associations would continue to include health care, travel expenses, training, and other expenses incurred on behalf of apprentice pilots with limited registrations, when determined to be necessary and reasonable by the Director. Associations currently fund travel and employment benefits for apprentice pilots with limited registrations in order to train pilots and provide pilotage services to the shipping industry. Apprentice pilots with limited registrations are expected to travel and be away from home while performing these duties. It is reasonable and consistent with industry practice for the association to cover their travel expenses. These travel costs are also allowed for fully registered pilots operating on the Great Lakes performing substantially similar services.

The approved operating expenses could include health care and other necessary and reasonable employment benefits as well. Apprentice pilots are often offered benefits to help with retention and recruitment. Allowing associations to include necessary and reasonable expenses for apprentice pilots with limited registrations as operating expenses in the ratemaking would continue to promote adequate funding for apprentice pilot training and provision of pilotage services in the Great Lakes.

VII. Discussion of Proposed Rate Adjustments

In this NPRM, based on the proposed policy changes described in the previous section, we are proposing new pilotage rates for 2022. We propose to conduct the 2022 ratemaking as an ''interim year,'' as was done in 2021, rather than a full ratemaking, as was conducted in 2018. Thus, the Coast Guard proposes to adjust the compensation benchmark following the procedures for an interim ratemaking year pursuant to § 404.100(b) for this purpose, rather than the full ratemaking year procedures in § 404.100(a).

This section discusses the proposed rate changes using the ratemaking steps provided in 46 CFR part 404, incorporating the proposed changes discussed in section VI. We will detail all 10 steps of the ratemaking procedure for each of the 3 districts to show how we arrive at the proposed new rates.

District One

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2018 expenses and revenues.[19] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District One are shown in table 3.

Adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking where indicated under the Public Participation and Request for Comments portion of the preamble.

In the 2019 expenses used as the basis for this rulemaking, districts used the term ''applicant'' to describe applicant trainees and persons who would be

[19] These reports are available in the docket for this rulemaking.

called apprentices (applicant pilots) under the new definition proposed in this rulemaking. Therefore, when describing past expenses, we use the term ''applicant'' to match what was reported from 2019, which includes both applicant and apprentice pilots. We use ''apprentice'' to distinguish apprentice pilot wages and describe the impacts of the ratemaking going forward.

There was one Director's adjustment for District One, a deduction for $282,015, the amount of surcharge collected in 2019. As this amount exceeds the reported 2019 applicant salaries of $227,893, there is no further Director's adjustment. We continue to include applicant salaries as an allowable expense in the 2022 ratemaking, as it is based on 2019 operating expenses, when salaries were still an allowable expense. The apprentice salaries paid in the years 2019, 2020, and 2021 have not been reimbursed in the ratemaking as of publication of this proposed rule. Applicant salaries (including applicant trainees and apprentice pilots) will continue to be an allowable operating expense through the 2024 ratemaking, which uses operating expenses from 2021 where the wages for apprentice pilots were still authorized as operating expenses. Starting in the 2025 ratemaking, apprentice pilot salaries would no longer be included as a 2022 operating expense, because apprentice pilot wages would have already been factored into the ratemaking Steps 3 and 4 in calculation of the 2022 rates. Starting in 2025, the applicant salaries' operating expenses for 2022 will consist of only applicant trainees (those who are not yet apprentice pilots).

TABLE 3—2019 RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported operating expenses for 2019	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Applicant Pilot Salaries:			
Salaries	$136,736	$91,157	$227,893
Employee Benefits	12,506	8,337	20,843
Applicant Subsistence/Travel	30,685	20,567	51,252
Applicant Payroll Tax	7,943	5,295	13,238
Total Applicant Pilot Salaries	187,870	125,356	313,226
Other Pilot Cost:			
Subsistence/Travel—Pilots	667,071	444,714	1,111,785
License Insurance—Pilots	43,162	28,774	71,936
Payroll Taxes—Pilots	184,884	123,256	308,140
Other	136,178	90,784	226,962
Total other pilotage costs	1,031,295	687,528	1,718,823
Pilot Boat and Dispatch Costs:			
Pilot Boat Expense (Operating)	360,276	240,184	600,460
Certified Public Accountant (CPA) Deduction (D1–19–01), (D1–19–02)	138,093	92,062	230,155
Dispatch Expense	82,722	55,148	137,870
Payroll Taxes	22,412	14,941	37,353
Total Pilot and Dispatch Costs	603,503	402,335	1,005,838
Administrative Expenses:			
Legal—General Counsel	34,558	23,038	57,596
Legal—Shared Counsel (K&L Gates)	55,318	36,879	92,197
Legal—USCG Intervener Litigation	28,765	19,177	47,942
Office Rent	.....	.....	0
Insurance	27,753	18,502	46,255
Employee Benefits	7,056	4,704	11,760
Payroll Taxes	5,236	3,491	8,727
Other Taxes	61,822	41,215	103,037
Real Estate Taxes	22,787	15,191	37,978
Travel	34,617	23,078	57,695
Depreciation/Auto Leasing/Other	107,584	71,723	179,307
CPA Deduction (D1–19–01)	(52,291)	(34,861)	(87,152)
Interest	24,339	16,226	40,565
CPA Deduction (D1–19–01)	(24,339)	(16,226)	(40,565)
APA Dues	25,838	17,225	43,063
Dues and Subscriptions	4,080	2,720	6,800
Utilities	19,221	12,814	32,035
Salaries	164,453	109,636	274,089
Accounting/Professional Fees	7,980	5,320	13,300
Other	21,908	14,605	36,513
Total Administrative Expenses	576,685	384,457	961,142
Total Expenses (OpEx + Applicant + Pilot Boats + Admin + Capital)	2,399,353	1,599,676	3,999,029
Surcharge Collected	(169,209)	(112,806)	(282,015)
Total Directors Adjustments	(169,209)	(112,806)	(282,015)
Total Operating Expenses (OpEx + Adjustments)	2,230,144	1,486,870	3,717,014

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2019 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation using the BLS data from the CPI for the Midwest Region of the United States for the 2020 inflation rate.[20] Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2021 and 2022 inflation modification.[21] Based on that information, the calculations for Step 2 are as follows:

TABLE 4—ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$2,230,144	$1,486,870	$3,717,014
2020 Inflation Modification (@1%)	22,301	14,869	37,170
2021 Inflation Modification (@2.4%)	54,059	36,042	90,101
2022 Inflation Modification (@2%)	46,130	30,756	76,886
Adjusted 2021 Operating Expenses	2,352,634	1,568,537	3,921,171

C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots

In accordance with the text in § 404.103, we estimate the number of fully registered pilots in each district. We determine the number of fully registered pilots based on data provided by the SLSPA. Using these numbers, we estimate that there will be 18 registered pilots in 2022 in District One. We determine the number of apprentice pilots based on input from the district on anticipated retirements and staffing needs. Using these numbers, we estimate that there will be two apprentice pilots in 2022 in District One. Based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), and our proposed changes to that staffing model, we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 5. Without rounding up, there would be 7 pilots assigned to the undesignated area of District One (6.8 pilots which is rounded up to 7 pilots). These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 5—AUTHORIZED PILOTS

Item	District One
Proposed Maximum Number of Pilots (per § 401.220(a))[22]	18
2022 Authorized Pilots (total)	18
Pilots Assigned to Designated Areas	10
Pilots Assigned to Undesignated Areas	8
2022 Apprentice Pilots	2

D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark

In this step, we determine the total target pilot compensation for each area. As we are issuing an ''interim'' ratemaking this year, we follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. As stated in section VI.A of the preamble, we are proposing to use a two-step process to adjust target pilot compensation for inflation. First, we adjust the 2021 percent target compensation benchmark of $378,925 by 1.8 percent for an adjusted value of $385,746. The adjustment accounts for the difference in actual fourth quarter (Q4) 2020 ECI inflation, which is 3.5 percent, and the 2020 PCE estimate of 1.7 percent.[23] [24] The second step accounts for projected inflation from 2021 to 2022, 2.0 percent.[25] Based on the projected 2022 inflation estimate, the proposed target compensation benchmark for 2022 is $393,461 per pilot. The target apprentice pilot wage is 36 percent of the target pilot compensation, $141,646 (= $393,461 × 0.36).

TABLE 6—TARGET PILOT COMPENSATION

2021 Target Compensation from Final Rule	$378,925
Difference between Actual 2021 ECI inflation (3.5%) and 2020 PCE Estimate (1.7%)	1.80%
Adjusted 2021 Compensation	$385,746
2021 to 2022 Inflation Factor	2.00%
2022 Target Pilot Compensation	$393,461
2022 Target Apprentice Pilot Wage	$141,646

[20] The 2020 inflation rate is available at *https://beta.bls.gov/dataViewer/view/timeseries/CUUR0200SA0*. Specifically the CPI is defined as ''All Urban Consumers (CPI–U), All Items, 1982–4=100''. (Downloaded April 2021)

[21] The 2021 and 2022 inflation rates are available at *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20210317.pdf*. We used the PCE median inflation value found in table 1. (Downloaded March 24, 2021)

[22] For a detailed calculation, refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[23] Employment Cost Index, Total Compensation for Private Industry workers in Transportation and Material Moving, Series ID: CIU2010000520000A.

[24] CPI for All Urban Consumers, Series ID CUUR0200SA0.

[25] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20210317.pdf.*

Next, we certify that the number of pilots estimated for 2021 is less than or equal to the number permitted under the proposed changes to the staffing model in § 401.220(a). The proposed changes to the staffing model suggest that the number of pilots needed is 18 pilots for District One, which is less than or equal to 18, the number of registered pilots provided by the pilot associations. In accordance with the proposed changes to § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of registered pilots for District One, as shown in table 7. We estimate that the number of apprentice pilots with limited registration needed will be two for District One in the 2022 season. The total target wages for apprentices are allocated with 60 percent for the designated area, and 40 percent for the undesignated area, in accordance with the way operating expenses are allocated.

TABLE 7—TARGET COMPENSATION FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Target Pilot Compensation	$393,461	$393,461	$393,461
Number of Pilots	10	8	18
Total Target Pilot Compensation	$3,934,610	$3,147,688	$7,082,298
Target Apprentice Pilot Wage	$141,646	$141,646	$141,646
Number of Apprentice Pilots	.....	.....	2
Total Target Apprentice Pilot Wages	$169,975	$113,317	$283,292

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses, total pilot compensation, and total target apprentice pilot wage for each area. Next, we find the preceding year's average annual rate of return for new issues of high-grade corporate securities. Using Moody's data, the number is 2.4767 percent.[26] By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 8.

TABLE 8—WORKING CAPITAL FUND CALCULATION FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$2,352,634	$1,568,537	$3,921,171
Total Target Pilot Compensation (Step 4)	3,934,610	3,147,688	7,082,298
Total Target Apprentice Pilot Wages (Step 4)	169,975	113,317	283,292
Total 2022 Expenses	6,457,219	4,829,542	11,286,761
Working Capital Fund (2.48%)	159,924	119,612	279,536

F. Step 6: Project Needed Revenue

In this step, we add all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), total target apprentice pilot wage (from Step 4), and the working capital fund contribution (from Step 5). We show these calculations in table 9.

TABLE 9—REVENUE NEEDED FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$2,352,634	$1,568,537	$3,921,171
Total Target Pilot Compensation (Step 4)	3,934,610	3,147,688	7,082,298
Total Target Apprentice Pilot Wages (Step 4)	169,975	113,317	283,292
Working Capital Fund (Step 5)	159,924	119,612	279,536
Total Revenue Needed	6,617,143	4,949,154	11,566,297

[26] Moody's Seasoned Aaa Corporate Bond Yield, average of 2020 monthly data. The Coast Guard uses the most recent year of complete data. Moody's is taken from Moody's Investors Service, which is a bond credit rating business of Moody's Corporation. Bond ratings are based on creditworthiness and risk. The rating of ''Aaa'' is the highest bond rating assigned with the lowest credit risk. See *https://fred.stlouisfed.org/series/AAA*. (Downloaded March 26, 2021)

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, to develop an hourly rate we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in District One, using the total time on task or pilot bridge hours.[27] Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 10.

TABLE 10—TIME ON TASK FOR DISTRICT ONE

[Hours]

Year	District One	
	Designated	Undesignated
2020	6,265	7,560
2019	8,232	8,405
2018	6,943	8,445
2017	7,605	8,679
2016	5,434	6,217
2015	5,743	6,667
2014	6,810	6,853
2013	5,864	5,529
2012	4,771	5,121
2011	5,045	5,377
Average	6,271	6,885

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. We present the calculations for each area in table 11.

TABLE 11—INITIAL RATE CALCULATIONS FOR DISTRICT ONE

	Designated	Undesignated
Revenue Needed (Step 6)	$6,617,143	$4,949,154
Average Time on Task (Hours)	6,271	6,885
Initial Rate	$1,055	$719

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 12 and 13.[28]

TABLE 12—AVERAGE WEIGHTING FACTOR FOR DISTRICT ONE, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	41	1	41
Class 1 (2016)	31	1	31
Class 1 (2017)	28	1	28
Class 1 (2018)	54	1	54
Class 1 (2019)	72	1	72
Class 1 (2020)	8	1	8
Class 2 (2014)	285	1.15	327.75
Class 2 (2015)	295	1.15	339.25
Class 2 (2016)	185	1.15	212.75
Class 2 (2017)	352	1.15	404.8
Class 2 (2018)	559	1.15	642.85
Class 2 (2019)	378	1.15	434.7
Class 2 (2020)	560	1.15	644
Class 3 (2014)	50	1.3	65
Class 3 (2015)	28	1.3	36.4
Class 3 (2016)	50	1.3	65
Class 3 (2017)	67	1.3	87.1
Class 3 (2018)	86	1.3	111.8
Class 3 (2019)	122	1.3	158.6
Class 3 (2020)	67	1.3	87.1
Class 4 (2014)	271	1.45	392.95
Class 4 (2015)	251	1.45	363.95
Class 4 (2016)	214	1.45	310.3
Class 4 (2017)	285	1.45	413.25
Class 4 (2018)	393	1.45	569.85

[27] To calculate the time on task for each district, the Coast Guard uses billing data from the Great Lakes Pilotage Management System (GLPMS). We pull the data from the system filtering by district, year, job status (we only include closed jobs), and flagging code (we only include U.S. jobs). After downloading the data, we remove any overland transfers from the dataset, if necessary, and sum the total bridge hours, by area. We then subtract any non-billable delay hours from the total.

[28] To calculate the number of transits by vessel class, we use the billing data from GLPMS and SeaPro, filtering by district, year, job status (we only include closed jobs), and flagging code (we only include U.S. jobs). We then count the number of jobs by vessel class and area. (SeaPro, used by all three pilot districts, is the approved dispatch and invoicing system that tracks pilot and vessel transits in place of the GLPMS.)

TABLE 12—AVERAGE WEIGHTING FACTOR FOR DISTRICT ONE, DESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2019)	730	1.45	1058.5
Class 4 (2020)	427	1.45	619.15
Total	5,920		7,610
Average weighting factor (weighted transits/number of transits)		1.29	

TABLE 13—AVERAGE WEIGHTING FACTOR FOR DISTRICT ONE, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	25	1	25
Class 1 (2015)	28	1	28
Class 1 (2016)	18	1	18
Class 1 (2017)	19	1	19
Class 1 (2018)	22	1	22
Class 1 (2019)	30	1	30
Class 1 (2020)	3	1	3
Class 2 (2014)	238	1.15	273.7
Class 2 (2015)	263	1.15	302.45
Class 2 (2016)	169	1.15	194.35
Class 2 (2017)	290	1.15	333.5
Class 2 (2018)	352	1.15	404.8
Class 2 (2019)	366	1.15	420.9
Class 2 (2020)	358	1.15	411.7
Class 3 (2014)	60	1.3	78
Class 3 (2015)	42	1.3	54.6
Class 3 (2016)	28	1.3	36.4
Class 3 (2017)	45	1.3	58.5
Class 3 (2018)	63	1.3	81.9
Class 3 (2019)	58	1.3	75.4
Class 3 (2020)	35	1.3	45.5
Class 4 (2014)	289	1.45	419.05
Class 4 (2015)	269	1.45	390.05
Class 4 (2016)	222	1.45	321.9
Class 4 (2017)	285	1.45	413.25
Class 4 (2018)	382	1.45	553.9
Class 4 (2019)	326	1.45	472.7
Class 4 (2020)	334	1.45	484.3
Total	4,619		5,972
Average weighting factor (weighted transits/number of transits)		1.29	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors is considered; the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates calculated in Step 7 by the average weighting factors calculated in Step 8, as shown in table 14.

TABLE 14—REVISED BASE RATES FOR DISTRICT ONE

Area	Initial rate (step 7)	Average weighting factor (step 8)	Revised Rate (initial rate ÷ average weighting factor)
District One: Designated	$1,055	1.29	$818
District One: Undesignated	719	1.29	557

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish this, the Director considers whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the proposed rates would cover operating expenses and infrastructure costs, including average traffic and weighting factions. Based on the financial information submitted by the

pilots, the Director is not proposing any alterations to the rates in this step. We propose to modify § 401.405(a)(1) and (2) to reflect the final rates shown in table 15.

TABLE 15—PROPOSED FINAL RATES FOR DISTRICT ONE

Area	Name	Final 2021 pilotage rate	Proposed 2022 pilotage rate
District One: Designated	St. Lawrence River	$800	$818
District One: Undesignated	Lake Ontario	498	557

District Two

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2019 expenses and revenues.[29] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District Two are shown in table 16.

Adjustments made by the auditors are explained in the auditors' reports (available in the docket where indicated in the Public Participation and Request for Comments portion of this document).

In the 2019 expenses used as the basis for this rulemaking, districts used the term ''applicant'' to describe applicant trainees and persons who would be called apprentices under the new definition proposed in this rulemaking. Therefore, when describing past expenses, we use the term ''applicant'' to match what was reported from 2019, but use ''apprentice'' to distinguish the impacts of the ratemaking going forward.

There are two Director's adjustments for District Two. The first deduction is $173,818, the amount of surcharge collected in 2019 to recoup expenses of one applicant pilot, which is greater than the allowable surcharge of $150,000 per applicant pilot. The second deduction of $287,836 reduces the allowable expenses for applicant pilot salaries to 36 percent of target pilot compensation. District Two reported $417,395 in expenses for the salary of a single applicant pilot, more than the salary of a fully registered pilot. Using the 36 percent target, the allowable applicant salary would have been $129,559, meaning the district paid an excess of $287,836 in applicant salaries ($417,395 − $129,559 = $287,836). We continue to include applicant salaries as an allowable expense in the 2022 ratemaking as it is based on 2019 operating expenses, when salaries were still an allowable expense. The apprentice salaries paid in the years 2019, 2020, and 2021 have not been reimbursed in the ratemaking as of publication of this proposed rule. Applicant salaries (including applicant trainees and apprentice pilots) will continue to be an allowable operating expense through the 2024 ratemaking, which uses operating expenses from 2021, where the wages for apprentice pilots were still authorized as operating expenses. Starting in the 2025 ratemaking, apprentice pilot salaries would no longer be included as a 2022 operating expense, because apprentice pilot wages would have already been factored into the ratemaking Steps 3 and 4 in calculation of the 2022 rates. Starting in 2025, the applicant salaries' operating expenses for 2022 will consist of only applicant trainees (those who are not yet apprentice pilots).

TABLE 16—2019 RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported operating expenses for 2019	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Total Other Pilotage Costs:			
Subsistence/Travel—Pilots	$140,909	$211,363	$352,272
Hotel/Lodging Cost	49,800	74,700	124,500
License Insurance	730	1,095	1,825
Payroll Taxes	90,091	135,137	225,228
Insurance	95,470	143,206	238,676
Training	6,428	9,642	16,070
Other	221	331	552
Total Other Pilotage Costs	383,649	575,474	959,123
Total Applicant Pilotage Cost:			
Applicant Salaries	166,958	250,437	417,395
Applicant Health Insurance	80	120	200
Applicant Subsistence/Travel	5,729	8,593	14,322
Applicant Hotel/Lodging Cost	3,984	5,976	9,960

[29] These reports are available in the docket for this 2022 ratemaking rulemaking (see Docket No. USCG–2021–0431).

TABLE 16—2019 RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported operating expenses for 2019	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Applicant Payroll Tax	5,717	8,576	14,293
Total Applicant Cost	182,468	273,702	456,170
Pilot Boat and Dispatch Costs:			
Pilot Boat Cost	210,948	316,422	527,370
Employee Benefits	96,959	145,438	242,397
Payroll Taxes	13,178	19,767	32,945
Total Pilot Boat and Dispatch Costs	321,085	481,627	802,712
Administrative Expense:			
Legal—General Counsel	4,430	6,645	11,075
Legal—Shared Counsel (K&L Gates)	22,696	34,045	56,741
Office Rent	27,627	41,440	69,067
Insurance	11,085	16,627	27,712
Employee Benefits	34,093	51,139	85,232
Payroll Taxes	5,259	7,888	13,147
Other Taxes	36,484	54,726	91,210
Real Estate Taxes	7,905	11,858	19,763
Depreciation/Auto Lease/Other	12,248	18,371	30,619
Interest	320	481	801
APA Dues	14,698	22,048	36,746
Dues and Subscriptions	1,912	2,868	4,780
Utilities	18,910	28,366	47,276
Salaries—Admin Employees	49,924	74,885	124,809
Accounting	13,452	20,178	33,630
Other	18,322	27,483	45,805
Total Administrative Expenses	279,365	419,048	698,413
Total OpEx (Pilot Costs + Applicant Cost + Pilot Boats + Admin)	1,166,567	1,749,851	2,916,418
Directors Adjustments—Applicant Surcharge Collected	(69,527)	(104,291)	(173,818)
Directors Adjustments—Excess Applicant Salary Paid	(115,134)	(172,701)	(287,836)
Total Director's Adjustments	(184,661)	(276,992)	(461,654)
Total Operating Expenses (OpEx + Adjustments)	981,906	1,472,859	2,454,764

* Values may not sum due to rounding.

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2019 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period.

We calculate inflation using the BLS data from the CPI for the Midwest Region of the United States for the 2020 inflation rate.[30] Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2021 and 2022 inflation modification.[31] Based on that information, the calculations for Step 2 are as follows:

TABLE 17—ADJUSTED OPERATING EXPENSES FOR DISTRICT TWO

	District Two		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$981,906	$1,472,859	$2,454,764
2020 Inflation Modification (@1%)	9,819	14,729	24,548
2021 Inflation Modification (@2.4%)	23,801	35,702	59,503
2022 Inflation Modification (@2%)	20,311	30,466	50,777
Adjusted 2022 Operating Expenses	1,035,837	1,553,756	2,589,592

[30] The 2020 inflation rate is available at *https://beta.bls.gov/dataViewer/view/timeseries/CUUR0200SA0*. Specifically the CPI is defined as ''All Urban Consumers (CPI–U), All Items, 1982–4=100.'' (Downloaded April 2021)

[31] The 2021 and 2022 inflation rates are available at *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20210317.pdf*. We used the PCE median inflation value found in table 1. (Downloaded March 24, 2021)

C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots

In accordance with the text in § 404.103, we estimate the number of registered pilots in each district. We determine the number of registered pilots based on data provided by the LPA. Using these numbers, we estimate that there will be 16 registered pilots in 2022 in District Two. We determine the number of apprentice pilots based on input from the district on anticipated retirements and staffing needs. Using these numbers, we estimate that there will be two apprentice pilots in 2022 in District Two. Furthermore, based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466) and our proposed changes to that staffing model, we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 18. Without rounding up, there would be 8 pilots assigned to the undesignated area of District Two (8.6 pilots which is rounded up to 9 pilots). These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 18—AUTHORIZED PILOTS

Item	District Two
Proposed Maximum Number of Pilots (per § 401.220(a)) [32]	16
2022 Authorized Pilots (total)	16
Pilots Assigned to Designated Areas	7
Pilots Assigned to Undesignated Areas	9
2022 Apprentice Pilots	2

D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark

In this step, we determine the total pilot compensation for each area. As we are issuing an ''interim'' ratemaking this year, we follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. As stated in section VI.A of the preamble, we are proposing to use a two-step process to adjust target pilot compensation for inflation. First, we adjust the 2021 percent target compensation benchmark of $378,925 by multiplying by 1.8 percent for an adjusted value of $385,746. The adjustment accounts for the difference in actual Q4 2020 ECI inflation, 3.5 percent, and the 2020 PCE estimate of 1.7 percent.[33] [34] The second step accounts for projected inflation from 2021 to 2022, which is 2.0 percent.[35] The proposed compensation benchmark for 2022 is $393,461 per pilot, as calculated in table 6. The target apprentice pilot wage is 36 percent of the target pilot compensation, $141,646 (= $393,461 × 0.36).

Next, we certify that the number of pilots estimated for 2022 is less than or equal to the number permitted under the proposed changes to the staffing model in § 401.220(a). The proposed changes to the staffing model suggest that the number of pilots needed is 16 pilots for District Two, which is less than or equal to 16, the number of registered pilots provided by the pilot associations.[36]

Thus, in accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of registered pilots for District Two, as shown in table 19.

TABLE 19—TARGET COMPENSATION FOR DISTRICT TWO

	District Two		
	Undesignated	Designated	Total
Target Pilot Compensation	$393,461	$393,461	$393,461
Number of Pilots	9	7	16
Total Target Pilot Compensation	$3,541,149	$2,754,227	$6,295,376
Target Apprentice Pilot Wage	$141,646	$141,646	$141,646
Number of Apprentice Pilots			2
Total Target Apprentice Pilot Wages	$169,975	$113,317	$283,292

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses, total pilot compensation, and total target apprentice pilot wages for each area. Next, we find the preceding year's average annual rate of return for new issues of high-grade corporate securities. Using Moody's data, the number is 2.4767 percent.[37] By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 20.

[32] For a detailed calculation refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[33] Employment Cost Index, Total Compensation for Private Industry workers in Transportation and Material Moving, Series ID: CIU2010000520000A.

[34] CPI for All Urban Consumers, Series ID CUUR0200SA0.

[35] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20210317.pdf.*

[36] See table 6 of the Great Lakes Pilotage Rates—2017 Annual Review final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

[37] See footnote 22 for more information.

TABLE 20—WORKING CAPITAL FUND CALCULATION FOR DISTRICT TWO

	District Two		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,035,837	$1,553,756	$2,589,592
Total Target Pilot Compensation (Step 4)	3,541,149	2,754,227	6,295,376
Total Target Apprentice Pilot Wages (Step 4)	169,975	113,317	283,292
Total 2022 Expenses	4,746,961	4,421,300	9,168,260
Working Capital Fund (2.48%)	117,566	109,501	227,067

F. Step 6: Project Needed Revenue

In this step, we add all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), total target apprentice pilot wages, and the working capital fund contribution (from Step 5). We show these calculations in table 21.

TABLE 21—REVENUE NEEDED FOR DISTRICT TWO

	District Two		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,035,837	$1,553,756	$2,589,592
Total Target Pilot Compensation (Step 4)	3,541,149	2,754,227	6,295,376
Total Target Apprentice Pilot Wages (Step 4)	169,975	113,317	283,292
Working Capital Fund (Step 5)	117,566	109,501	227,067
Total Revenue Needed	4,864,527	4,530,801	9,395,327

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, to develop an hourly rate we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in District Two, using the total time on task or pilot bridge hours.[38] Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 22.

TABLE 22—TIME ON TASK FOR DISTRICT TWO

[Hours]

Year	District Two	
	Designated	Undesignated
2020	6,232	8,401
2019	6,512	7,715
2018	6,150	6,655
2017	5,139	6,074
2016	6,425	5,615
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
2011	3,708	3,680
Average	5,701	5,978

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in table 23. The initial rate for the designated area is lower than last year's rate because of the increase in bridge hours shown as the average time on task, making the denominator of the revenue needed divided by bridge hours larger, and therefore making the initial rate lower.

[38] See footnote 23 for more information.

TABLE 23—INITIAL RATE CALCULATIONS FOR DISTRICT TWO

Item	Undesignated	Designated
Revenue Needed (Step 6)	$4,864,527	$4,530,801
Average Time on Task (Hours)	5,701	5,978
Initial Rate	$853	$758

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 24 and 25.[39]

TABLE 24—AVERAGE WEIGHTING FACTOR FOR DISTRICT TWO, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	35	1	35
Class 1 (2016)	32	1	32
Class 1 (2017)	21	1	21
Class 1 (2018)	37	1	37
Class 1 (2019)	54	1	54
Class 1 (2020)	1	1	1
Class 2 (2014)	356	1.15	409.4
Class 2 (2015)	354	1.15	407.1
Class 2 (2016)	380	1.15	437
Class 2 (2017)	222	1.15	255.3
Class 2 (2018)	123	1.15	141.45
Class 2 (2019)	127	1.15	146.05
Class 2 (2020)	165	1.15	189.75
Class 3 (2014)	20	1.3	26
Class 3 (2015)	0	1.3	0
Class 3 (2016)	9	1.3	11.7
Class 3 (2017)	12	1.3	15.6
Class 3 (2018)	3	1.3	3.9
Class 3 (2019)	1	1.3	1.3
Class 3 (2020)	1	1.3	1.3
Class 4 (2014)	636	1.45	922.2
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	678.6
Class 4 (2017)	319	1.45	462.55
Class 4 (2018)	196	1.45	284.20
Class 4 (2019)	210	1.45	304.50
Class 4 (2020)	201	1.45	291.45
Total	4,574		6,012
Average weighting factor (weighted transits/number of transits)		1.31	

TABLE 25—AVERAGE WEIGHTING FACTOR FOR DISTRICT TWO, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	20	1	20
Class 1 (2015)	15	1	15
Class 1 (2016)	28	1	28
Class 1 (2017)	15	1	15
Class 1 (2018)	42	1	42
Class 1 (2019)	48	1	48
Class 1 (2020)	7	1	7
Class 2 (2014)	237	1.15	272.55
Class 2 (2015)	217	1.15	249.55
Class 2 (2016)	224	1.15	257.6
Class 2 (2017)	127	1.15	146.05
Class 2 (2018)	153	1.15	175.95
Class 2 (2019)	281	1.15	323.15
Class 2 (2020)	342	1.15	393.3
Class 3 (2014)	8	1.3	10.4

[39] See footnote 24 for more information.

TABLE 25—AVERAGE WEIGHTING FACTOR FOR DISTRICT TWO, DESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	4	1.3	5.2
Class 3 (2017)	4	1.3	5.2
Class 3 (2018)	14	1.3	18.2
Class 3 (2019)	1	1.3	1.3
Class 3 (2020)	5	1.3	6.5
Class 4 (2014)	359	1.45	520.55
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407.45
Class 4 (2017)	185	1.45	268.25
Class 4 (2018)	379	1.45	549.55
Class 4 (2019)	403	1.45	584.35
Class 4 (2020)	405	1.45	587.25
Total	4,152		5,461
Average weighting factor (weighted transits/number of transits)		1.32	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors is considered, the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates calculated in Step 7 by the average weighting factors calculated in Step 8, as shown in table 26.

TABLE 26—REVISED BASE RATES FOR DISTRICT TWO

Area	Initial rate (step 7)	Average weighting factor (step 8)	Revised rate (initial rate ÷ average weighting factor)
District Two: Designated	$758	1.32	$574
District Two: Undesignated	853	1.31	651

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish this, the Director considers whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods, and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the proposed rates would cover operating expenses and infrastructure costs, and takes average traffic and weighting factors into consideration. Based on this information, the Director is not proposing any alterations to the rates in this step. The proposed 2021 rate for the designated area of District Two is lower than the 2020 final rate because of the increased traffic shown in Step 7. We propose to modify § 401.405(a)(3) and (4) to reflect the final rates shown in table 27.

TABLE 27—PROPOSED FINAL RATES FOR DISTRICT TWO

Area	Name	Final 2020 pilotage rate	Proposed 2021 pilotage rate
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	$580	$574
District Two: Undesignated	Lake Erie	566	651

District Three

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2018 expenses and revenues.[40] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District Three are shown in table 28.

Adjustments made by the auditors are explained in the auditors' reports (available in the docket where indicated in the Public Participation and Request for Comments portion of this document).

In the 2019 expenses used as the basis for this rulemaking, districts used the

[40] These reports are available in the docket for this rulemaking (see Docket No. USCG–2019–0736).

term ''applicant'' to describe applicant trainees and persons who would be called apprentices under the new definition proposed in this rulemaking. Therefore, when describing past expenses, we use the term ''applicant'' to match what was reported from 2019, but use ''apprentice'' to describe the impacts of the ratemaking going forward.

There are two Director's adjustments for District Three. The first deduction is $746,802, the amount of surcharge collected in 2019 to recoup expenses of four applicant pilots, which is greater than the allowable surcharge of $150,000 per applicant pilot. The second deduction of $1,921 reduces the allowable expenses for applicant pilots to 36 percent of target pilot compensation. District Three reported $520,158 in expenses for the salary of four applicant pilots. Using the 36 percent target, the allowable applicant salary would have been $129,559 per applicant for a total of $518,237 for four applicant pilots, meaning the district paid an excess of $1,921 in applicant salaries ($520,158 − $518,237 = $1,921). Applicant salaries (including applicant trainees and apprentice pilots) will continue to be an allowable operating expense through the 2024 ratemaking, which uses operating expenses from 2021 where the wages for apprentice pilots were still authorized as operating expenses. Starting in the 2025 ratemaking, apprentice pilot salaries would no longer be included as a 2022 operating expense, because apprentice pilot wages would have already been factored into the ratemaking Steps 3 and 4 in calculation of the 2022 rates. Starting in 2025, the applicant salaries operating expenses for 2022 will consist of only applicant trainees (those who are not apprentice pilots).

TABLE 28—2019 RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported operating expenses for 2019	District Three			Total
	Undesignated	Designated	Undesignated	
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Other Pilotage Costs:				
Pilot Subsistence/Travel	$274,911	$114,586	$144,207	$533,704
Hotel/Lodging Cost	118,533	49,406	62,178	230,117
License Insurance—Pilots	16,171	6,740	8,483	31,394
Payroll Taxes				0
Payroll Tax (D3–19–01)	146,545	61,082	76,871	284,498
Pilot Training	40,017	16,680	20,991	77,688
Other	12,551	5,232	6,584	24,367
Total Other Pilotage Costs	608,728	253,726	319,314	1,181,768
Applicant Cost:				
Applicant Salaries	267,933	111,678	140,547	520,158
Applicant Benefits	77,627	32,356	40,720	150,703
Applicant Payroll Tax	21,713	9,050	11,390	42,153
Total Applicant Cost	367,273	153,084	192,657	713,014
Pilot Boat and Dispatch Costs:				
Pilot Boat Costs	415,908	173,356	218,168	807,432
Dispatch Costs	126,807	52,855	66,518	246,180
Employee Benefits	7,550	3,147	3,960	14,657
Payroll Taxes	10,534	4,391	5,526	20,451
Total Pilot Boat and Dispatch Costs	560,799	233,749	294,172	1,088,720
Administrative Cost:				
Legal—General Counsel	9,453	3,940	4,958	18,351
Legal—Shared Counsel (K&L Gates)	26,858	11,195	14,089	52,142
Legal—USCG Intervener Litigation	19,050	7,940	9,993	36,983
Office Rent	3,369	1,404	1,767	6,540
Insurance	27,622	11,513	14,489	53,624
Employee Benefits	77,435	32,276	40,619	150,330
Payroll Tax	18,984	7,913	9,958	36,855
Other Taxes	480	200	252	932
Depreciation/Auto Leasing/Other	51,287	21,377	26,903	99,567
Interest	5,754	2,398	3,018	11,170
APA Dues	24,311	10,133	12,752	47,196
Dues and Subscriptions	4,198	1,750	2,202	8,150
Utilities	38,585	16,083	20,240	74,908
Salaries	75,200	31,344	39,447	145,991
Accounting/Professional Fees	19,865	8,280	10,420	38,565
Other Expenses	23,945	9,981	12,561	46,487
CPA Deduction (D3–18–01)	(4,117)	(1,716)	(2,160)	(7,993)
Total Administrative Expenses	422,279	176,011	221,508	819,798
Total Operating Expenses (Other Costs+ Applicant Cost + Pilot Boats + Admin)	1,959,079	816,570	1,027,651	3,803,300
Directors Adjustments—Applicant Surcharge Collected	(384,678)	(160,339)	(201,786)	(746,802)
Directors Adjustments—Excess Applicant Salary Paid	(989.36)	(412.38)	(518.98)	(1,921)

TABLE 28—2019 RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported operating expenses for 2019	District Three			Total
	Undesignated	Designated	Undesignated	
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Total Directors Adjustments	(385,667)	(160,751)	(202,305)	(748,723)
Total Operating Expenses (OpEx + Adjustments)	1,573,412	655,819	825,346	3,054,577

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2019 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period.

We calculate inflation using the BLS data from the CPI for the Midwest Region of the United States for the 2020 inflation rate.[41] Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2021 and 2022 inflation modification.[42] Based on that information, the calculations for Step 2 are as follows:

TABLE 29—ADJUSTED OPERATING EXPENSES FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$2,398,758	$655,819	$3,054,577
2020 Inflation Modification (@1%)	23,988	6,558	30,546
2021 Inflation Modification (@2.4%)	58,146	15,897	74,043
2022 Inflation Modification (@2%)	49,618	13,565	63,183
Adjusted 2022 Operating Expenses	2,530,510	691,839	3,222,349

C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots

In accordance with the text in § 404.104(c), we estimate the number of registered pilots in each district. We determine the number of registered pilots based on data provided by the WGLPA. Using these numbers, we estimate that there will be 22 registered pilots in 2022 in District Three. We determine the number of apprentice pilots based on input from the district on anticipated retirements and staffing needs. Using these numbers, we estimate that there will be five apprentice pilots in 2022 in District Three. Furthermore, based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), and our proposed changes to that staffing model, we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 30. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 30—AUTHORIZED PILOTS

Item	District Three
Proposed Maximum Number of Pilots (per § 401.220(a))[43]	22
2022 Authorized Pilots (total)	22
Pilots Assigned to Designated Areas	4
Pilots Assigned to Undesignated Areas	18
2022 Apprentice Pilots	5

D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark

In this step, we determine the total pilot compensation for each area. As we are issuing an ''interim'' ratemaking this year, we follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. First, we adjust the 2021 percent target compensation benchmark of $378,925 by 1.8 percent for an adjusted value of $385,746. The adjustment accounts for the difference in actual Q4 2020 ECI inflation, 3.5 percent, and the 2020 PCE estimate of 1.7 percent.[44] [45] The second step accounts for projected inflation from

[41] The 2020 inflation rate is available at *https://beta.bls.gov/dataViewer/view/timeseries/CUUR0200SA0.* Specifically the CPI is defined as ''All Urban Consumers (CPI–U), All Items, 1982 – 4 = 100''. (Downloaded April 2021)

[42] The 2021 and 2022 inflation rates are available at *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20210317.pdf. We used the PCE median inflation value found in table 1.* (Downloaded March 24, 2021)

[43] For a detailed calculation, refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[44] Employment Cost Index, Total Compensation for Private Industry workers in Transportation and Material Moving, Series ID: CIU2010000520000A.

[45] CPI for All Urban Consumers, Series ID CUUR0200SA0.

2021 to 2022, 2.0 percent.[46] Based on the projected 2022 inflation estimate, the proposed compensation benchmark for 2022 is $393,461 per pilot as shown in table 6. The target apprentice pilot wage is 36 percent of the target pilot compensation, $141,646 (= $393,461 × 0.36).

Next, we certify that the number of pilots estimated for 2022 is less than or equal to the number permitted under the proposed changes to the staffing model in § 401.220(a). The proposed changes to the staffing model suggest that the number of pilots needed is 22 pilots for District Three, which is less than or equal to 22, the number of registered pilots provided by the pilot associations.[47]

Thus, in accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of registered pilots for District Three, as shown in table 31.

TABLE 31—TARGET COMPENSATION FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Target Pilot Compensation	$393,461	$393,461	$393,461
Number of Pilots	18	4	22
Total Target Pilot Compensation	$7,082,298	$1,573,844	$8,656,142
Target Apprentice Pilot Wage	$141,646	$141,646	$141,646
Number of Apprentice Pilots	.....	.....	5
Total Target Apprentice Pilot Wages	$424,938	$283,292	$708,229.80

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses, total pilot compensation, and total target apprentice pilot wages for each area. Next, we find the preceding year's average annual rate of return for new issues of high-grade corporate securities. Using Moody's data, the number is 2.4767 percent.[48] By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 32.

TABLE 32—WORKING CAPITAL FUND CALCULATION FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$2,530,510	$691,839	$3,222,349
Total Target Pilot Compensation (Step 4)	7,082,298	1,573,844	8,656,142
Total Target Apprentice Pilot Wages (Step 4)	424,938	283,292	708,230
Total 2022 Expenses	10,037,746	2,548,975	12,586,721
Working Capital Fund (2.48%)	248,602	63,130	311,732

F. Step 6: Project Needed Revenue

In this step, we add all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The calculations are shown in table 33.

TABLE 33—REVENUE NEEDED FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$2,530,510	$691,839	$3,222,349
Total Target Pilot Compensation (Step 4)	7,082,298	1,573,844	8,656,142
Total Target Apprentice Pilot Wages (Step 4)	424,938	283,292	708,230
Working Capital Fund (Step 5)	248,602	63,130	311,732
Total Revenue Needed	10,286,348	2,612,105	12,898,453

[46] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20210317.pdf.*

[47] See Table 6 of the Great Lakes Pilotage Rates—2017 Annual Review final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, to develop an hourly rate we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in District Three, using the total time on task or pilot bridge hours.[49] Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 34.

TABLE 34—TIME ON TASK FOR DISTRICT THREE

[Hours]

Year	District Three	
	Undesignated	Designated
2020	24,178	3,682
2019	24,851	3,395
2018	19,967	3,455
2017	20,955	2,997
2016	23,421	2,769
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
2011	16,012	1,678
Average	21,106	2,930

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in table 35.

TABLE 35—INITIAL RATE CALCULATIONS FOR DISTRICT THREE

	Undesignated	Designated
Revenue Needed (Step 6)	$10,287,977	$2,612,550
Average Time on Task (Hours)	21,106	2,930
Initial Rate	487	891

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 36 and 37.[50]

TABLE 36—AVERAGE WEIGHTING FACTOR FOR DISTRICT THREE, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	45	1	45
Class 1 (2015)	56	1	56
Class 1 (2016)	136	1	136
Class 1 (2017)	148	1	148
Class 1 (2018)	103	1	103
Class 1 (2019)	173	1	173
Class 1 (2020)	4	1	4
Class 2 (2014)	274	1.15	315.1
Class 2 (2015)	207	1.15	238.05
Class 2 (2016)	236	1.15	271.4
Class 2 (2017)	264	1.15	303.6
Class 2 (2018)	169	1.15	194.35
Class 2 (2019)	279	1.15	320.85
Class 2 (2020)	395	1.15	454.25
Class 3 (2014)	15	1.3	19.5
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	10	1.3	13
Class 3 (2017)	19	1.3	24.7
Class 3 (2018)	9	1.3	11.7
Class 3 (2019)	9	1.3	11.7
Class 3 (2020)	4	1.3	5.2

[49] See footnote 22 for more information.

TABLE 36—AVERAGE WEIGHTING FACTOR FOR DISTRICT THREE, UNDESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2014)	394	1.45	571.3
Class 4 (2015)	375	1.45	543.75
Class 4 (2016)	332	1.45	481.4
Class 4 (2017)	367	1.45	532.15
Class 4 (2018)	337	1.45	488.65
Class 4 (2019)	334	1.45	484.3
Class 4 (2020)	413	1.45	598.85
Total for Area 6	5,115		6,559
Area 8:			
Class 1 (2014)	3	1	3
Class 1 (2015)	0	1	0
Class 1 (2016)	4	1	4
Class 1 (2017)	4	1	4
Class 1 (2018)	0	1	0
Class 1 (2019)	0	1	0
Class 1 (2020)	1	1	1
Class 2 (2014)	177	1.15	203.55
Class 2 (2015)	169	1.15	194.35
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	151	1.15	173.65
Class 2 (2018)	102	1.15	117.3
Class 2 (2019)	120	1.15	138
Class 2 (2020)	239	1.15	274.85
Class 3 (2014)	3	1.3	3.9
Class 3 (2015)	0	1.3	0
Class 3 (2016)	7	1.3	9.1
Class 3 (2017)	18	1.3	23.4
Class 3 (2018)	7	1.3	9.1
Class 3 (2019)	6	1.3	7.8
Class 3 (2020)	2	1.3	2.6
Class 4 (2014)	243	1.45	352.35
Class 4 (2015)	253	1.45	366.85
Class 4 (2016)	204	1.45	295.8
Class 4 (2017)	269	1.45	390.05
Class 4 (2018)	188	1.45	272.6
Class 4 (2019)	254	1.45	368.3
Class 4 (2020)	456	1.45	661.2
Total for Area 8	3,054		4,077
Combined total	8,169		10,636.05
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 37—AVERAGE WEIGHTING FACTOR FOR DISTRICT THREE, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	27	1	27
Class 1 (2015)	23	1	23
Class 1 (2016)	55	1	55
Class 1 (2017)	62	1	62
Class 1 (2018)	47	1	47
Class 1 (2019)	45	1	45
Class 1 (2020)	16	1	16
Class 2 (2014)	221	1.15	254.15
Class 2 (2015)	145	1.15	166.75
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	170	1.15	195.5
Class 2 (2018)	126	1.15	144.9
Class 2 (2019)	162	1.15	186.3
Class 2 (2020)	250	1.15	287.5
Class 3 (2014)	4	1.3	5.2
Class 3 (2015)	0	1.3	0
Class 3 (2016)	6	1.3	7.8
Class 3 (2017)	14	1.3	18.2
Class 3 (2018)	6	1.3	7.8
Class 3 (2019)	3	1.3	3.9
Class 3 (2020)	4	1.3	5.2

TABLE 37—AVERAGE WEIGHTING FACTOR FOR DISTRICT THREE, DESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2014)	321	1.45	465.45
Class 4 (2015)	245	1.45	355.25
Class 4 (2016)	191	1.45	276.95
Class 4 (2017)	234	1.45	339.3
Class 4 (2018)	225	1.45	326.25
Class 4 (2019)	308	1.45	446.6
Class 4 (2020)	385	1.45	558.25
Total	3,469		4,526
Average weighting factor (weighted transits/number of transits)		1.30	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors is considered, the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates calculated in Step 7 by the average weighting factors calculated in Step 8, as shown in table 38.

TABLE 38—REVISED BASE RATES FOR DISTRICT THREE

Area	Initial rate (step 7)	Average weighting factor (step 8)	Revised rate (initial rate ÷ average weighting factor)
District Three: Designated	$891	1.30	$685
District Three: Undesignated	487	1.30	375

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish this, the Director considers whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the proposed rates would cover operating expenses and infrastructure costs, and takes average traffic and weighting factors into consideration. Based on this information, the Director is not proposing any alterations to the rates in this step. We propose to modify § 401.405(a)(5) and (6) to reflect the final rates shown in table 39.

TABLE 39—PROPOSED FINAL RATES FOR DISTRICT THREE

Area	Name	Final 2020 pilotage rate	Proposed 2021 pilotage rate
District Three: Designated	St. Marys River	$586	$685
District Three: Undesignated	Lakes Huron, Michigan, and Superior	337	375

VIII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Office of Management and Budget (OMB) has not designated this proposed rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. A regulatory analysis (RA) follows. The purpose of this proposed rule is to establish new base pilotage rates, as 46 U.S.C. 9303(f) requires that rates be established or reviewed and adjusted each year. The statute also requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The last full ratemaking was concluded in June of 2018.[51] For this ratemaking, the Coast Guard estimates an increase in cost of approximately $3.53 million to industry, an approximate 12-percent increase, because of the change in revenue needed in 2022 compared to the revenue needed in 2021.

Table 40 summarizes proposed changes with no cost impacts or where the cost impacts are captured in the

[51] Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology (83 FR 26162), published June 5, 2018.

proposed rate change. Table 41 summarizes the affected population, costs, and benefits of the proposed rate change.

TABLE 40—PROPOSED CHANGES WITH NO COSTS OR COST CAPTURED IN THE PROPOSED RATE CHANGE

Change	Description	Affected population	Basis for no cost or cost captured in the rate	Benefits
Add a definition of apprentice pilot.	Distinguishes between applicants who have not yet entered training and apprentices, persons approved and certified by the Director who are participating in an approved U.S. Great Lakes pilot training and qualification program and meet all the minimum requirements listed in 46 CFR 401.211.	Owners and operators of 293 vessels transiting the Great Lakes system annually, 56 U.S. Great Lakes pilots, 9 apprentice pilots, and 3 pilotage associations.	No cost, strictly a definitional change.	Provides clarity by distinguishing apprentice pilots from applicant trainees when calculating the apprentice pilot operating expenses, estimates and wage benchmark.
Changes to staffing model	The Coast Guard is proposing to modify the staffing model at 46 CFR 401.220(a)(3) to round up to the nearest integer, as opposed to the existing method, which rounds to the nearest integer. In total, this would increase the maximum number of allowable pilots by 2, adding one pilot to each of the undesignated areas of District One and District Two.	Owners and operators of 293 vessels transiting the Great Lakes system annually, 56 U.S. Great Lakes pilots, 9 apprentice pilots, and 3 pilotage associations.	The total number of pilots is accounted for in the base pilotage rates. For the 2022 ratemaking, this proposed change would allow for two additional pilots that would not have otherwise been allowed. This increases the total revenue needed by $773,281.	Rounding up in the staffing model accounts for extra staff or extra time spent by the pilot associations presidents not performing pilotage service. Rounding up allows us to account for this time and promote safety and restorative rest, while minimizing delays in providing pilotage services.
Adding number of apprentice pilots to Step 3 and setting target apprentice pilot wage in Step 4.	The Coast Guard is proposing to modify the staffing model at 46 CFR 404.103 to predict the number of apprentice pilots each district would need for the next season. 46 CFR 404.103 would establish the target apprentice pilot wage at 36% of registered pilot compensation for that year.	Owners and operators of 293 vessels transiting the Great Lakes system annually, 56 U.S. Great Lakes pilots, 9 apprentice pilots, and 3 pilotage associations.	Total cost of $1,274,814 for the wages of 9 apprentice pilots for the 2022 season. This amount is incorporated into the rate increase.	Setting a target wage of 36% of registered pilot compensation better matches changes in registered pilot compensation and inflation and more evenly distributes the additional cost of apprentice pilots compared to the surcharge method.

TABLE 41—ECONOMIC IMPACTS DUE TO PROPOSED CHANGES

Change	Description	Affected population	Costs	Benefits
Rate and surcharge changes.	In accordance with 46 U.S.C. Chapter 93, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 293 vessels transiting the Great Lakes system annually, 56 U.S. Great Lakes pilots, 9 apprentice pilots, and 3 pilotage associations.	Increase of $3,527,425 due to change in revenue needed for 2022 ($33,860,077) from revenue needed for 2021 ($30,332,652), as shown in table 42.	New rates cover an association's necessary and reasonable operating expenses. Promotes safe, efficient, and reliable pilotage service on the Great Lakes. Provides fair compensation, adequate training, and sufficient rest periods for pilots. Ensures the association receives sufficient revenues to fund future improvements.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See sections IV and V of this preamble for detailed discussions of the legal basis and purpose for this rulemaking and for background

information on Great Lakes pilotage ratemaking. Based on our annual review for this rulemaking, we are proposing to adjust the pilotage rates for the 2022 shipping season to generate sufficient revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The result would be an increase in rates for all areas in Districts One and Three and the undesignated area of District Two. The rate for the designated area of District Two would decrease. These changes would lead to a net increase in the cost of service to shippers. However, because the proposed rates would increase for some areas and decrease for others, the change in per unit cost to each individual shipper would be dependent on their area of operation, and if they previously paid a surcharge.

A detailed discussion of our economic impact analysis follows.

Affected Population

This rule would affect U.S. Great Lakes pilots, the 3 pilot associations, and the owners and operators of 293 oceangoing vessels that transit the Great Lakes annually. We estimate that there would be 56 registered pilots and 9 apprentice pilots during the 2022 shipping season. The shippers affected by these rate changes are those owners and operators of domestic vessels operating ''on register'' (engaged in foreign trade) and owners and operators of non-Canadian foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. U.S.-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these U.S. and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for varying reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

The Coast Guard used billing information from the years 2018 through 2020 from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. As described in Step 7 of the methodology, we use a 10-year average to estimate the traffic. We used 3 years of the most recent billing data to estimate the affected population. When we reviewed 10 years of the most recent billing data, we found the data included vessels that have not used pilotage services in recent years. We believe using 3 years of billing data is a better representation of the vessel population that is currently using pilotage services and would be impacted by this rulemaking. We found that 514 unique vessels used pilotage services during the years 2017 through 2019. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS or SeaPro. Of these vessels, 465 were foreign-flagged vessels and 49 were U.S.-flagged vessels. As stated previously, U.S.-flagged vessels not operating on register are not required to have a registered pilot per 46 U.S.C. 9302, but they can voluntarily choose to have one.

Numerous factors affect vessel traffic, which varies from year to year. Therefore, rather than using the total number of vessels over the time period, we took an average of the unique vessels using pilotage services from the years 2018 through 2020 as the best representation of vessels estimated to be affected by the rates in this rulemaking. From 2018 through 2020, an average of 293 vessels used pilotage services annually.[52] On average, 275 of these vessels were foreign-flagged vessels and 19 were U.S.-flagged vessels that voluntarily opted into the pilotage service.

Total Cost to Shippers

The proposed rate changes resulting from this adjustment to the rates would result in a net increase in the cost of service to shippers. However, the proposed change in per unit cost to each individual shipper would be dependent on their area of operation.

The Coast Guard estimates the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2021 with the total projected revenues to cover costs in 2022, including any temporary surcharges we have authorized.[53] We set pilotage rates so pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they have a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services. The change in revenue from the previous year is the additional cost to shippers discussed in this rule.

The impacts of the rate changes on shippers are estimated from the district pilotage projected revenues (shown in tables 9, 21, and 33 of this preamble). The Coast Guard estimates that for the 2022 shipping season, the projected revenue needed for all three districts is $33,860,077.

To estimate the change in cost to shippers from this rule, the Coast Guard compared the 2022 total projected revenues to the 2021 projected revenues. Because we review and prescribe rates for the Great Lakes Pilotage annually, the effects are estimated as a single-year cost rather than annualized over a 10-year period. In the 2021 rulemaking, we estimated the total projected revenue needed for 2021 as $30,332,652.[54] This is the best approximation of 2021 revenues, as at the time of this publication the Coast Guard does not have enough audited data available for the 2021 shipping season to revise these projections.[55] Table 42 shows the revenue projections for 2021 and 2022 and details the additional cost increases to shippers by area and district as a result of the rate changes on traffic in Districts One, Two, and Three.

[52] Some vessels entered the Great Lakes multiple times in a single year, affecting the average number of unique vessels utilizing pilotage services in any given year.

[53] While the Coast Guard implemented a surcharge in 2019, we are not proposing any surcharges for 2022.

[54] 85 FR 20088, see table 41.

[55] The proposed rates for 2021 do not account for the impacts COVID–19 may have had on shipping traffic and subsequently pilotage revenue, as we do not have complete data for 2020. The rates for 2022 will take into account for all and any pertinent impacts of COVID–19 on shipping traffic, because that future ratemaking will include 2020 traffic data. However, the Coast Guard uses 10-year average when calculating traffic in order to smooth out variations in traffic caused by global economic conditions, such as those caused by the COVID–19 pandemic.

TABLE 42—EFFECT OF THE RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Revenue needed in 2021	Revenue needed in 2022	Change in costs of this proposed rule
Total, District One	$10,620,941	$11,566,297	$945,356
Total, District Two	8,506,705	9,395,327	888,622
Total, District Three	11,205,006	12,898,453	1,693,447
System Total	30,332,652	33,860,077	3,527,425

The resulting difference between the projected revenue in 2021 and the projected revenue in 2022 is the annual change in payments from shippers to pilots as a result of the rate change imposed by this proposed rule. The effect of the rate change to shippers varies by area and district. After taking into account the change in pilotage rates, the rate changes would lead to affected shippers operating in District One experiencing an increase in payments of $945,356 over the previous year. District Two and District Three would experience an increase in payments of $888,622 and $1,693,447, respectively, when compared with 2021. The overall adjustment in payments would be an increase in payments by shippers of $3,527,425 across all three districts (a 12-percent increase when compared with 2021). Again, because the Coast Guard reviews and sets rates for Great Lakes pilotage annually, we estimate the impacts as single-year costs rather than annualizing them over a 10-year period.

Table 43 shows the difference in revenue by revenue-component from 2021 to 2022 and presents each revenue-component as a percentage of the total revenue needed. In both 2021 and 2022, the largest revenue-component was pilotage compensation (71 percent of total revenue needed in 2021 and 65 percent of total revenue needed in 2022), followed by operating expenses (26 percent of total revenue needed in 2021 and 29 percent of total revenue needed in 2022).

TABLE 43—DIFFERENCE IN REVENUE BY COMPONENT

Revenue-component	Revenue needed in 2021	Percentage of total revenue needed in 2021	Revenue needed in 2022	Percentage of total revenue needed in 2022	Difference (2022 revenue – 2021 revenue)	Percentage change from previous year
Adjusted Operating Expenses	$8,876,850	29	$9,733,112	29	$856,262	10
Total Target Pilot Compensation	20,461,950	67	22,033,816	65	1,571,866	8
Total Target Apprentice Pilot Wages	.....	.....	1,274,814	4	1,274,814	.....
Working Capital Fund	993,852	3	818,335	2	(175,517)	(18)
Total Revenue Needed	30,332,652	100	33,860,077	100	3,527,425	12

Note: Totals may not sum due to rounding.

As stated above, we estimate that there will be a total increase in revenue needed by the pilot associations of $3,527,425. This represents an increase in revenue needed for target pilot compensation of $1,571,866, the now-codified revenue needed for total apprentice pilot wages of $1,274,814, and an increase in the revenue needed for adjusted operating expenses of $856,262 and a decrease in the revenue needed for the working capital fund of ($175,517).

The majority of the increase in revenue needed, $1,571,866, is the result of changes to target pilot compensation. These changes are due to three factors: (1) The proposed changes to adjust 2021 pilotage compensation to account for the difference between actual ECI inflation (3.5 percent) [56] and predicted PCE inflation (1.7 percent) [57] for 2021; (2) the net addition of two additional pilots; and (3) inflation of pilotage compensation in step 2 of the methodology using CPI from 2019 and predicted inflation through 2022.

The proposed target compensation is $393,461 per pilot in 2022, compared to $378,925 in 2021. The proposed changes to modify the 2020 pilot compensation to account for the difference between predicted and actual inflation would increase the 2021 target compensation value by 1.8 percent. As shown in table 44, this inflation adjustment would increase total compensation by $6,821 per pilot, and the total revenue needed by $381,956 when accounting for all 56 pilots.

[56] *https://www.bls.gov/news.release/archives/eci_01292021.htm.*

[57] *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20201216.htm.*

TABLE 44—CHANGE IN REVENUE RESULTING FROM THE PROPOSED CHANGE TO INFLATION OF PILOT COMPENSATION CALCULATION IN STEP 4

2021 target compensation	$378,925
Adjusted 2021 Compensation ($378,925 × 1.018)	385,746
Difference between Target 2021 Compensation and Adjusted Target 2021 Compensation ($385,746 − $378,925)	6,821
Increase in Total Revenue for 56 Pilots ($6,821 × 56)	381,956

Adjusting rounding in the staffing model to always round up, rather than round to the nearest integer, would add an additional pilot to the undesignated areas of District One and District Two. The proposed addition of two fully registered pilots accounts for $773,281 of the increase in needed revenue. As shown in table 44, to avoid double counting, this value excludes the change in revenue resulting from the proposed change to adjust 2021 pilotage compensation to account for the difference between actual and predicted inflation.

TABLE 45—CHANGE IN REVENUE RESULTING FROM ADDING TWO ADDITIONAL PILOTS

2022 Target Compensation	$393,461
Total Number of New Pilots	2
Total Cost of New Pilots ($393,461 × 2)	$786,922
Difference between Adjusted Target 2021 Compensation and Target 2021 Compensation ($378,925 − $385,746)	$6,821
Increase in Total Revenue for 2 Pilots ($6,821 × 2)	$13,641
Net Increase in Total Revenue for 2 Pilots ($786,922 − $13,641)	$773,281

Another proposed increase, $432,060, is the result of increasing compensation for the 56 pilots to account for future inflation of 2.0 percent in 2022. This would increase total compensation by $7,715 per pilot, as shown in table 46.

TABLE 46—CHANGE IN REVENUE RESULTING FROM INFLATING 2021 COMPENSATION TO 2022

Adjusted 2021 Compensation	$385,746
2022 Target Compensation ($385,746 × 1.02)	393,461
Difference between Adjusted 2021 Compensation and Target 2022 Compensation ($393,461 − $385,746)	7,715
Increase in Total Revenue for 56 Pilots ($7,715 × 56)	432,060

Finally, the second-largest part of the increase in revenue needed would be to account for the target apprentice pilot wage, now incorporated into the rate. First, in Step 3, we estimate the need for 9 apprentice pilots for the 2022 shipping season. Based on the 2022 target pilot compensation of $393,461, the target apprentice pilot wage would be $141,646 ($393,461 × 0.36 = $141,646). Setting the target in this manner, rather than through a surcharge, better allows apprentice pilot wages to match fluctuations in the pilot wage, which follows changes in traffic and better accounts for changes in inflation than the surcharge. Additionally, unlike a surcharge, this method will not need to be ''turned off,'' which makes rates throughout the season more predictable for shippers. The total cost of wages for the 9 apprentice pilots would be $1,274,814, as shown in table 47.

TABLE 47—CHANGE IN REVENUE RESULTING FROM TARGET APPRENTICE PILOT WAGES

2022 Target Apprentice Pilot Wage	$141,646
Total Number of Apprentice Pilots	9
Total Cost of Apprentice Pilots ($141,646 × 9)	$1,274,814

Table 48 presents the percentage change in revenue by area and revenue-component, excluding surcharges, as they are applied at the district level.[58]

[58] The 2020 projected revenues are from the Great Lakes Pilotage Rate—2020 Annual Review and Revisions to Methodology final rule (85 FR 20088), tables 8, 20, and 32. The 2021 projected revenues are from tables 9, 21, and 33 of this NPRM.

TABLE 48—DIFFERENCE IN REVENUE BY COMPONENT AND AREA

	Adjusted operating expenses			Total target pilot compensation			Total target apprentice pilot wage	Working capital fund			Total revenue needed		
	2021	2022	Percentage change	2021	2022	Percentage change	2022	2021	2022	Percentage change	2021	2022	Percentage change
District One: Designated	$2,328,981	$2,352,634	1	$3,789,250	$4,104,585	8	$169,975	$207,255	$159,924	(30)	$6,325,486	$6,617,143	4
District One: Undesignated	1,502,239	1,568,537	4	2,652,475	3,261,005	19	113,317	140,741	119,612	(18)	4,295,455	4,949,154	13
District Two: Undesignated	1,003,961	1,035,837	3	3,031,400	3,711,124	18	169,975	136,698	117,566	(16)	4,172,059	4,864,527	14
District Two: Designated	1,540,146	1,553,756	1	2,652,475	2,867,544	8	113,317	142,025	109,501	(30)	4,334,646	4,530,801	4
District Three: Undesignated	1,947,484	2,530,510	23	6,820,650	7,507,236	9	424,938	297,021	248,602	(19)	9,065,155	10,286,348	12
District Three: Designated	554,039	691,839	20	1,515,700	1,857,136	18	283,292	70,112	63,130	(11)	2,139,851	2,612,105	18

Benefits

This proposed rule would allow the Coast Guard to meet requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes would promote safe, efficient, and reliable pilotage service on the Great Lakes by (1) ensuring that rates cover an association's operating expenses; (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots; and (3) ensuring pilot associations produce enough revenue to fund future improvements. The rate changes would also help recruit and retain pilots, which would ensure a sufficient number of pilots to meet peak shipping demand, helping to reduce delays caused by pilot shortages.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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.

For the proposed rule, the Coast Guard reviewed recent company size and ownership data for the vessels identified in the GLPMS, and we reviewed business revenue and size data provided by publicly available sources such as Manta [59] and ReferenceUSA.[60] As described in section VIII.A of this preamble, Regulatory Planning and Review, we found that 513 unique vessels used pilotage services during the years 2018 through 2020. These vessels are owned by 58 entities, of which 44 are foreign entities that operate primarily outside the United States and the remaining 14 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) small business threshold as defined in the SBA's ''Table of Size Standards'' for small businesses to determine how many of these companies are considered small entities.[61] Table 49 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

TABLE 49—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small entity size standard
211120	Crude Petroleum Extraction	1,250 employees.
237990	Other Heavy and Civil Engineering Construction	$39.5 million.
238910	Site Preparation Contractors	$16.5 million.
483212	Inland Water Passenger Transportation	500 employees.
487210	Scenic and Sightseeing Transportation, Water	$8.0 million.
488330	Navigational Services to Shipping	$41.5 million.
523910	Miscellaneous Intermediation	$41.5 million.
561599	All Other Travel Arrangement and Reservation Services	$22.0 million.
982100	National Security	Population of 50,000 People.

Of the 14 U.S. entities, 7 exceed the SBA's small business standards for small entities. To estimate the potential impact on the seven small entities, the Coast Guard used their 2020 invoice data to estimate their pilotage costs in 2022. Of the seven entities from 2018 to 2020, only three used pilotage services in 2020. We increased their 2020 costs to account for the changes in pilotage rates resulting from this proposed rule and the Great Lakes Pilotage Rates—2021 Annual Review and Revisions to Methodology final rule (86 FR 14184). We estimated the change in cost to these entities resulting from this proposed rule by subtracting their estimated 2021 costs from their estimated 2022 costs and found the average costs to small firms would be approximately $16,072, with a range of $607 to $70,853.[62] We then compared the estimated change in pilotage costs between 2021 and 2022 with each firm's annual revenue. In all cases, their estimated pilotage expenses were below 1 percent of their annual revenue.

In addition to the owners and operators discussed above, three U.S. entities that receive revenue from pilotage services would be affected by this proposed rule. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships, and one operates as a corporation. These associations are designated with the same NAICS code and small-entity size standards described above, but have fewer than 500 employees. Combined, they have approximately 65 employees in total and, therefore, are designated as small entities. The Coast Guard expects no adverse effect on these entities from this rule, because the three pilot associations would receive enough revenue to balance the projected expenses associated with the projected number of bridge hours (time on task) and pilots.

Finally, the Coast Guard did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields that would be impacted by this proposed rule. We also did not find any small governmental jurisdictions with populations of fewer than 50,000 people that would be impacted by this proposed rule. Based on this analysis, we conclude this rulemaking would not affect a substantial number of small entities, nor have a significant economic impact on any of the affected entities.

Based on our analysis, this proposed rule would have a less than 1 percent annual impact on three small entities; therefore, 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. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think

[59] *See https://www.manta.com/.*

[60] *See https://resource.referenceusa.com/.*

[61] *See https://www.sba.gov/document/support--table-size-standards.* SBA has established a ''Table of Size Standards'' for small businesses that sets small business size standards by NAICS code. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be in order to remain classified as a small business for SBA and Federal contracting programs.

it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed 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 in the **FOR FURTHER INFORMATION** section of this proposed rule. 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.

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).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

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 Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services''. See 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, this proposed rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. Unfunded Mandates

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, 46 U.S.C. Chapter 93 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 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (Civil Justice Reform), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards. If you disagree with our analysis or are aware of voluntary consensus standards that might apply, please send a comment explaining your disagreement or identifying appropriate standards to the docket using one of the methods listed in the **ADDRESSES** section of this preamble.

M. Environment

We have analyzed this proposed rule under DHS Management 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 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. 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.

This proposed rule meets the criteria for categorical exclusion (CATEX) under paragraphs A3 and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–001–01, Rev. 1.[63] Paragraph A3 pertains to the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) Those of a strictly administrative or procedural nature; (b) those that implement, without substantive change, statutory or regulatory requirements; or (c) those that implement, without substantive change, procedures, manuals, and other guidance documents; and (d) those that interpret or amend an existing regulation without changing its environmental effect. Paragraph L54 pertains to regulations, which are editorial or procedural.

This proposed rule involves adjusting the pilotage rates to account for changes in district operating expenses, an increase in the number of pilots, and anticipated inflation. In addition, the Coast Guard is proposing how apprentice pilots will be compensated in future rulemakings. All of these proposed changes are consistent with the Coast Guard's maritime safety missions. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes; Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 401 and 404 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 is revised to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; DHS Delegation 00170.1, Revision No. 01.2, paragraphs (II)(92)(a), (d), (e), (f).

■ 2. Amend § 401.110 by adding paragraphs (a)(18) and (19) to read as follows:

§ 401.110 Definitions.

(a) * * *

(18) *Apprentice Pilot* means a person approved and certified by the Director who is participating in an approved U.S. Great Lakes pilot training and qualification program. This individual meets all the minimum requirements listed in 46 CFR 401.211. This definition is only applicable to determining which pilots may be included in the operating expenses, estimates, and wage benchmark in §§ 404.2(b)(7), 404.103(b), and 404.104(d) and (e).

(19) *Limited Registration* is a certificate issued by the Director, upon the request of the respective pilots association, to an Apprentice Pilot to provide pilotage service without direct supervision from a fully registered pilot in a specific area or waterway.

■ 3. Amend § 401.220 by revising the first sentence of paragraph (a)(3) to read as follows:

§ 401.220 Registration of pilots.

(a) * * *

(3) The number of pilots needed in each district is calculated by totaling the area results by district and rounding them up to a whole integer. * * *

* * * * *

■ 4. Amend § 401.405 by revising paragraphs (a)(1) through (6) to read as follows:

§ 401.405 Pilotage rates and charges.

(a) * * *

(1) The St. Lawrence River is $818;

(2) Lake Ontario is $557;

(3) Lake Erie is $651;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $574;

(5) Lakes Huron, Michigan, and Superior is $375; and

(6) The St. Marys River is $685.

* * * * *

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 5. The authority citation for part 404 is revised to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; DHS Delegation 00170.1, Revision No. 01.2, paragraphs (II)(92)(a), (f).

■ 6. Amend § 404.2 by adding paragraph (b)(7) to read as follows:

§ 404.2 Procedure and criteria for recognizing association expenses.

* * * * *

(b) * * *

(7) *Apprentice Pilot Expenses.* The association's expenses for Apprentice Pilots with limited registrations, such as health care, travel expenses, training, and other expenses are recognizable when determined to be necessary and reasonable.

* * * * *

■ 7. Amend § 404.103 as follows:

■ a. Revise the section heading;

■ b. Redesignate the introductory text as paragraph (a); and

■ c. Add new paragraph (b).

The revisions and additions read as follows:

§ 404.103 Ratemaking step 3: Estimate number of registered pilots and apprentice pilots.

* * * * *

(b) The Director projects, based on the number of persons applying under 46 CFR part 401 to become apprentice pilots, traffic projections, information provided by the pilotage association regarding upcoming retirements, and any other relevant data, the number of apprentice pilots with limited registrations expected to be in training and compensated.

■ 8. Amend § 404.104 as follows:

■ a. Revise the section heading; and

■ b. Add new paragraphs (d) and (e).

The revisions and additions read as follows:

§ 404.104 Ratemaking step 4: Determine target pilot compensation benchmark and apprentice pilot wage benchmark.

* * * * *

(d) The Director determines the individual apprentice pilot wage benchmark at the rate of 36 percent of the individual target pilot compensation, as calculated according to paragraphs (a) or (b) of this section.

(e) The Director determines each pilot association's total apprentice pilot wage benchmark by multiplying the apprentice pilot compensation computed in paragraph (d) of this section by the number of apprentice pilots with limited registrations projected under § 404.103(b).

* * * * *

[63] *https://www.dhs.gov/sites/default/files/publications/DHS_Instruction%20Manual%20023-01-001-01%20Rev%2001_508%20Admin%20Rev.pdf.*

Dated: September 3, 2021.

J.W. Mauger,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2021–19570 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket Nos. 13–97, 07–243, 20–67; IB Docket No. 16–155; FCC 21–94; FR ID 43570]

Numbering Policies for Modern Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) proposes to update rules regarding direct access to numbers by providers of interconnected voice over internet Protocol (VoIP) services. The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act directed the Commission to examine ways to reduce access to telephone numbers by potential perpetrators of illegal robocalls. These proposals aim to safeguard the numbers and consumers, protect national security interests, promote public safety, and reduce opportunities for regulatory arbitrage.

DATES: Comments are due on or before October 14, 2021, and reply comments are due on or before November 15, 2021. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public and other interested parties on or before November 15, 2021.

ADDRESSES: You may send comments, identified by WC Docket Nos. 13–97, 07–243, 20–67, and IB Docket No. 16–155 by any of the following methods:

- *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- *Hand Delivery:* Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Jordan Reth, at (202) 418–1418, *Jordan.Reth@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele, *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rulemaking* (FNPRM) in WC Docket Nos. 13–97, 07–243, 20–67, and IB Docket No. 16–155, adopted on August 5, 2021, and released on August 6, 2021. The full text of the document is available on the Commission's website at *https://www.fcc.gov/document/fcc-proposes-updating-numbering-rules-fight-robocalls.* To request materials in accessible formats for people with disabilities (*e.g.,* braille, large print, electronic files, audio format, etc.), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis: This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due November 15, 2021.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

I. Further Notice of Proposed Rulemaking

1. To provide additional guardrails to safeguard the Nation's finite numbering resources, protect consumers, curb illegal and harmful robocalling, reduce the opportunity for regulatory arbitrage, and further promote public safety, we propose and seek comment on a number of modifications to our rules governing the authorization process for interconnected VoIP providers' direct access to numbering resources. First, to enable Commission staff to have the necessary information to efficiently review direct access applications and continue protecting the public interest, we propose to require additional certifications as part of the direct access application process and clarify existing requirements. Second, to help address the risk of providing access to our numbering resources and databases to bad actors abroad, we propose clarifying that applicants must disclose foreign ownership information. Third, we propose clarifying that holders of a Commission direct access authorization must update the Commission and applicable states within 30 days of any change to the ownership information submitted to the Commission. Fourth, we seek comment whether any changes to our rules are necessary to clarify that holders of a Commission direct access

authorization must comply with state numbering requirements. Fifth, we propose to clarify that the Wireline Competition Bureau (the Bureau) retains the authority to determine when to release an Accepted-for-Filing Public Notice, and we propose to delegate authority to the Bureau to reject an application for direct access authorization if an applicant has engaged in behavior contrary to the public interest or has been found to have originated or transmitted illegal robocalls. Finally, we seek comment whether we should expand the direct access to numbers authorization process to one-way VoIP providers or other entities that use numbers.

A. Clarifying and Refining Application Requirements

2. To help curb illegal robocalls and improve the ability of Commission staff to safeguard the public interest and operate efficiently when reviewing VoIP direct access to numbers applications, we propose to require additional certifications as part of the direct access application process and clarify existing requirements. We seek comment on the burdens of imposing potential certification requirements, as discussed below, on applicants for numbering resources, particularly on small businesses.

3. *Certification Regarding Illegal Robocalls and/or Illegal Spoofing.* We propose to require a direct access applicant to certify that it will use numbering resources lawfully; will not encourage nor assist and facilitate illegal robocalls, illegal spoofing, or fraud; and will take reasonable steps to cease origination, termination, and/or transmission of illegal robocalls once discovered. We seek comment on whether we should adopt specific standards for what constitutes ''assisting and facilitating'' in this context, and if so, what would constitute ''reasonable'' measures for purposes of this proposal. How would any such specific standards impact the Commission's and our Federal partners' efforts to curb illegal robocalls? We also propose to require direct access applicants to certify that they will cooperate with the Commission, Federal and state law enforcement and regulatory agencies with relevant jurisdiction, and the industry-led registered consortium, regarding efforts to mitigate illegal or harmful robocalling or spoofing and tracebacks. A direct access applicant may already be subject to these or similar requirements under existing Commission rule. We believe the requirements we propose in this document are appropriate because they introduce additional trust into the assignment and use of telephone numbers; ensure that any entities not subject to our existing rules that seek direct access are not the source of illegal robocalls; and because they add another avenue for enforcement against bad actors. We seek comment on these proposals. Are there specific practices we should require applicants to address in their certifications? For example, should we require applicants to certify that the applicant will not supply numbers on a trial basis to new customers (*i.e.,* use of numbers for free for the first 30 days, etc.), a practice that commonly leads to bad actors gaining temporary control over numbers for the purposes of including misleading caller identification (ID) information? Should we require applicants to certify that they ''know their customer'' through customer identity verification, as the Commission raised previously? Would such additional certification requirements place interconnected VoIP providers at a competitive disadvantage with respect to their carrier counterparts?

4. *Certification of Robocall Mitigation Database Filing.* The recently-established Robocall Mitigation Database serves as another important resource in the fight against illegal robocalling. To support this effort, we propose to require an applicant for direct access authorization to (1) certify that it has filed in the Robocall Mitigation Database and (2) to certify that it has either (A) fully implemented the Secure Telephone Identity Revisited (STIR) and Signature-based Handling of Asserted Information Using toKENs (SHAKEN) caller ID authentication protocols and framework or (B) that it has implemented either STIR/SHAKEN caller ID authentication or a robocall mitigation program for all calls for which it acts as a voice service provider. If the applicant relies in part or whole on a robocall mitigation program, we further propose to require it to certify that it has described in the Database the detailed steps it is taking regarding number use that can reasonably be expected to reduce the origination and transmission of illegal robocalls. We seek comment on our proposal. We believe that requiring this certification as part of a direct access application is another important step the Commission can take in protecting consumers from unwanted robocalls; a provider that is noncompliant with its Robocall Mitigation Database obligations may be more likely to use numbers for improper purposes, and applying our Robocall Mitigation Database rules to those providers not otherwise subject to them as a prerequisite for number access will promote trust in the assignment and use of numbers. Do commenters agree? Should the Commission require an applicant to provide any additional documentation in support of this certification? What would be the benefits and costs of doing so? We also seek comment on whether there are any additional steps the Commission should take to help protect against misuse of numbering resources or other fraudulent activities involving telephone numbers.

5. In furtherance of our goals of protecting our numbering resources and preventing illegal robocalls, we also propose to require a direct access applicant or authorization holder to inform the Commission if the applicant or authorization holder is subject—either at the time of its application or after its filing or its grant—to a Commission, law enforcement, or regulatory agency action, investigation, or inquiry due to its robocall mitigation plan being deemed insufficient or problematic, or due to suspected unlawful robocalling or spoofing, and to acknowledge this requirement it its application. We seek comment on our proposal. We tentatively conclude that this acknowledgement and post-grant notification requirement is essential to ensure that both direct access applicants and authorization holders are working with the Commission to fight illegal robocalling and spoofing. We seek comment regarding the most effective way to accomplish the proposed post-authorization mandatory notification requirement, including on the appropriate method by which we should require notification to Commission staff.

6. *Public Safety Certification—911 and CALEA.* The Commission's rules require direct access applicants to certify that they comply with a number of requirements, including 911 obligations pursuant to our rules. The Commission's rules also require interconnected VoIP providers to provide Enhanced 911 service, as well as the ability to provide Public Safety Answering Points with a caller's location and a call-back number for each 911 call. Interconnected VoIP providers also must comply with the Communications Assistance for Law Enforcement Act (CALEA). In furtherance of our public safety goals and consistent with these requirements, we propose to require direct access applicants to certify that they are compliant with 911 service and CALEA requirements, and to provide documentation to support proof of compliance. We seek comment on this

proposal. We also seek comment on whether there is additional documentation or information we should require. For example, technical specifications and call-flow diagrams have been helpful to Commission staff in assessing direct access applicants' compliance with 911 service and CALEA requirements in some cases. Would requiring such documentation be unduly burdensome or put interconnected VoIP providers at a competitive disadvantage? If so, how? We also seek comment on whether there are any additional public safety certifications or acknowledgements that we should require as part of the direct access application process. Finally, we seek comment on whether and how we should obtain these proposed certifications from interconnected VoIP providers holding an existing Commission authorization for direct access to numbers.

7. *Access Stimulation Acknowledgement.* To support our longstanding efforts to combat access stimulation and other intercarrier compensation abuses, we seek comment on any changes we should make to our direct access authorization rules to help eliminate access stimulation and other forms of intercarrier compensation arbitrage. Access stimulation creates call congestion, can disrupt telecommunications networks, and ultimately results in increased costs to consumers. In a recent complaint proceeding, the Commission found that the subject of the complaint had inserted an interconnected VoIP provider ''into the call path for the sole purpose of avoiding the financial obligations that accompany the Commission's access stimulation rules.'' We seek comment on any changes to our VoIP direct access rules that could help prevent a similar situation from arising. For example, should we require an applicant for direct access authorization to certify that it will not use its numbering resources to evade our access stimulation rules? Or should we require an applicant for direct access authorization to consent to treatment as a local exchange carrier serving end users for purposes of the Commission's access stimulation rules? Should we instead require each applicant to certify that its traffic will be included in the call ratio calculations of any local exchange carrier it delivers traffic to for purposes of the access stimulation definition in § 61.3 of the Commission's rules? Should direct access to number applicants certify that the VoIP numbers they are applying for will only be used to provide interconnected VoIP services as opposed to for example, application-based services? Should we clarify that interconnected VoIP providers that receive direct access to numbers must use those numbers for interconnected VoIP services? How and for what services are interconnected VoIP providers that currently hold a Commission direct access authorization using those numbers? What would be the benefits of any such requirements? Would there be unintended consequences of any of these requirements? What burdens would these proposals, and other alternatives commenters may suggest, impose on interconnected VoIP providers? Would adoption of rules addressing interconnected VoIP providers' role in access arbitrage schemes put interconnected VoIP providers at a competitive disadvantage with respect to their carrier counterparts?

8. *Clarification of Form 477 and 499 Filings.* Interconnected VoIP providers that have qualifying subscribers must file Forms 477 and 499, and we propose to clarify that as such, they must file proof of compliance with these Commission filing requirements, and any successor filing requirements, when applicable, such as the Broadband Data Collection (BDC), as part of the direct access application process. Currently, Commission staff independently check for compliance and follow-up with non-compliant applicants on a case-by-case basis. While this requirement is referenced in the *VoIP Direct Access Order,* 80 FR 66454 (Oct. 29, 2015), many applicants have expressed confusion regarding the requirement and the necessity of filing both forms as an interconnected VoIP provider with qualifying subscribers. For this reason, we propose to make explicit in our rules that an interconnected VoIP provider that has qualifying subscribers and is required to file Forms 477 and 499 must provide evidence of compliance with completing these forms, and any successor filing requirements, when applicable, in its application.

9. *Technical Information for Proof of Interconnected VoIP Service; Facilities Readiness Requirement.* We propose to require a direct access applicant to provide sufficient technical documentation and information that clearly demonstrates that it will provide interconnected VoIP services, as opposed to one-way or non-interconnected VoIP services, and seek comment on our proposal. An interconnected VoIP service is a service that: (i) Enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires internet protocol-compatible customer premises equipment; and (iv) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. ''One-way VoIP'' differs from interconnected VoIP in that one-way VoIP permits users generally to receive calls that originate on the public switched telephone network *or* to terminate calls to the public switched telephone network, but not both. Non-interconnected VoIP is a broader category than one-way VoIP and includes both one-way VoIP and internet-based real-time voice communication that does not interconnect with the public switched telephone network. What specific types of information should we require? What burden would requiring submission of such technical information place on the applicant? In the alternative or in addition, should we require a certification from the applicant that it provides interconnected VoIP service?

10. Further, as noted above, our rules require that an applicant seeking direct access provide proof that it is capable of providing service within sixty days of the numbering resource activation date (''facilities readiness''). In the *VoIP Direct Access Order,* the Commission explained that applicants can achieve this through the submission of commercial agreements, specifically by (1) providing a combination of an agreement between the interconnected VoIP provider and its carrier partner and an interconnection agreement between that carrier and the relevant local exchange carrier (LEC), or (2) proof that the interconnected VoIP provider obtains interconnection with the Public Switched Telephone Network (PSTN) pursuant to a tariffed offering or a commercial arrangement (such as a time-division multiplexing (TDM)-to-internet Protocol (IP) or a VoIP interconnection agreement) that providers access to the PSTN. We have seen that some applicants do not submit commercial agreements or contracts that clearly illustrate their interconnection with the PSTN. We seek comment on whether we should dispel any confusion by specifying the types of documentation that we permit applicants to submit in the text of the rule. Are there other types of documents or information that we should permit applicants to file? We emphasize that unless and until we effect any change to our rules, VoIP direct access to numbers applicants must provide the requisite agreements to demonstrate that they

meet the facilities readiness requirement.

11. *Other.* Aside from the categories of possible certifications and information discussed above, are there other certifications or information that we should consider requiring applicants to submit as part of the direct access application process to effectively protect numbering resources and the public? If so, what certifications or information should we require?

12. *Truthful Certifications.* We remind applicants that Commission rules prohibit applicants for any Commission authorization from intentionally providing incorrect material factual information or intentionally omitting material information that is necessary to prevent any material factual statement from being incorrect or misleading. Our rules also prohibit applicants from providing material factual information that is incorrect (or omitting material information that is necessary to prevent any material factual statement that is made from being incorrect of misleading ''without a reasonable basis for believing that any such material factual statement is correct and not misleading. To the extent that there is any doubt, we propose to clarify that false certifications or statements made to the Commission may result in denial of a direct access application or revocation of authorization, and we propose to direct the Bureau to deny an application or begin the revocation process if it discovers that an applicant made a false statement. We seek comment on this proposal. Should we permit applicants or authorization holders an opportunity to correct mistaken certifications or other statements if made inadvertently and timely reported to Commission staff? Would an opportunity to cure a false certification run counter to the intent behind making a certification in the first place? In addition to potential denial of an application or revocation, a misrepresentation or lack of candor by an applicant may result in a forfeiture and/or other penalties. To further ensure accuracy, should we require an officer or responsible official to submit a declaration under penalty of perjury pursuant to § 1.16 of our rules attesting that all statements in the application and any appendices are true and accurate?

B. Foreign Ownership

13. Since the 2015 adoption of the *VoIP Direct Access Order,* a number of providers with substantial foreign ownership have applied to obtain direct access to numbering resources. Allowing these providers direct access to numbers and critical numbering databases raises a number of potential risks, including the impact to number conservation requirements; questions related to jurisdiction, oversight, and enforcement of numbering rules; consideration of assessment of taxes and fees upon foreign-owned entities; and potential national security and law enforcement risks with access to U.S. telecommunications network operations. The rules adopted in the *VoIP Direct Access Order* do not specifically require providers to disclose their ownership in the application process, nor do they establish specific procedures or processes by which to evaluate applications with substantial foreign ownership. It is vital that our rules governing VoIP providers' ability to obtain direct access to numbering resources address the risk of providing access to our numbering resources and databases to bad actors abroad. The Commission has, in its discretion, referred direct access to numbering applications with substantial foreign ownership to the relevant executive branch agencies for their review of and recommendations on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership. In this document, we propose to revise our rules to formalize that process to remove applications with reportable foreign ownership from streamlined processing.

14. To identify which applicants have foreign owners, we propose to require applicants for a Commission direct access authorization to disclose information, including the name, address, country of citizenship, and principal business of every person or entity that directly or indirectly owns at least 10 percent of the equity and/or voting interest, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities to the nearest one percent. We also propose that the applicant identify any interlocking directorates with a foreign carrier. We seek comment on these proposals. We tentatively conclude that applicants must disclose any 10 percent or greater ownership interests, including 10 percent or greater foreign ownership interests. We believe this is appropriate because it mirrors the disclosure required for domestic section 214 transfer of control applications and for applicants seeking an international section 214 authorization, as required by § 63.18 of the Commission's rules. Additionally, using the same threshold here as in the section 214 context serves the public interest because, in each case, we must ensure that ownership chains do not pose national security or law enforcement risks to the United States and its communications infrastructure. We seek comment on this tentative conclusion. Do commenters agree with this analysis? If not, what factors render the direct access to numbering applications different than applications to transfer authorizations to provide domestic common carrier service? Should the foreign ownership reporting obligations be triggered at a level lower than 10 percent or higher than 10 percent? We propose to adopt the calculations that § 63.18(h) uses for attribution of indirect ownership interests for direct access to numbering applicants. We seek comment on this proposal. Should we use different calculations for determining indirect ownership than those used in § 63.18(h)? If so, why, and what calculations should we use? Should we use aggregate foreign ownership rather than individual ownership? If so, at what level of aggregate foreign ownership should we require disclosure? We also specifically seek comment on the burdens of imposing these potential requirements on applicants for numbering resources, particularly on small businesses.

15. We also propose to require applicants for direct access to numbers to certify in their applications ''as to whether or not the applicant is, or is affiliated with, a foreign carrier,'' analogous to the certification required in § 63.18(i) for applicants for international section 214 authority. We seek comment on our proposal. Section 63.18(i) requires the certification to ''state with specificity each foreign country in which the applicant is, or is affiliated with, a foreign carrier.'' Would a similar certification for numbering resource applicants be in the public interest? Would such a certification provide information or confirmation not already included in the disclosure requirement? Would such a requirement in addition to the disclosure requirement be unduly burdensome to applicants?

16. The use of numbering resources by foreign entities may raise national security, law enforcement, foreign policy, or trade policy concerns. Consequently, we propose to direct the International Bureau, in coordination with the Wireline Competition Bureau, to generally refer applications with reportable foreign ownership—10 percent or greater direct or indirect ownership that is not a U.S. citizen or U.S. business entity—to the executive branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns

related to the foreign ownership of the applicant consistent with our referral of other applications. The Commission released the *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership* (*Executive Branch Review Order*), 85 FR 76360 (Nov. 27, 2020), delineating the types of applications the Commission will refer to the executive branch agencies and formalizing the review process and time frames, consistent with Executive order, *Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector* (*Executive Order 13913*), 85 FR 19643, April 4, 2020. which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). The Executive order also established various procedures, including specific time frames, for executive branch review of applications referred by the Commission. Pursuant to the *Executive Branch Review Order,* the Commission, in its discretion, recently has referred a number of direct access to numbering applications where there is substantial foreign ownership of the applicant to the Committee. Rather than refer under the Commission's discretionary authority, we propose to revise our rules and to generally require referral to the executive branch agencies of all direct access to numbering applications with reportable foreign ownership pursuant to subpart CC of part 1 of the Commission's rules. Accordingly, we propose to revise our rules to remove applications with reportable foreign ownership from streamlined processing. We seek comment on this proposal.

17. We propose that, we use the same procedures established by the Commission in the *Executive Branch Review Order* when we refer a direct access to numbering application to the executive branch agencies, including the 120-day initial review period, and 90-day secondary review period. As set forth in Executive Order 13913, the 120-day review period will begin when the Attorney General, the Chair of the Committee, determines that an applicant's responses are complete. We seek comment on this proposal. We also seek comment on alternative procedures for executive branch review of direct access to numbering applications. Should we consider different review periods, or no review period, in light of the fact that executive branch review of direct access to numbering applications is less established than executive branch review of section 214 authorizations or other types of applications?

18. The International Bureau, as directed by the Commission in the *Executive Branch Review Order,* is currently in the process of adopting a standardized set of national security and law enforcement questions (Standard Questions) ''that proponents of certain applications and petitions involving reportable foreign ownership will be required to answer as part of the review process.'' We seek comment on whether we should develop Standard Questions for direct access to numbering applicants. Should we direct the International Bureau, in coordination with the Wireline Competition Bureau, to draft, update as appropriate, and make available on a publicly available website, the Standard Questions that elicit the information needed by the Committee within those categories of information? By having an applicant file responses to Standard Questions with the Committee at the same time as the applicant files its application with the Commission, the Committee can begin its review of the application sooner and complete its review in a more timely manner. Should we employ the same procedures as in the *Executive Branch Review Order*—adopting the categories of information that will be required from applicants, rather than specific questions? If we were to adopt Standard Questions, should we require applicants to file their responses to the Standard Questions with the Committee prior to or at the same time they file their applications with the Commission?

19. We also seek comment on alternatives to the development and use of Standard Questions for direct access to numbering applications. We recognize that the executive Agencies may have less experience evaluating direct access to numbering applications than other types of applications (such as section 214 applications), and they may identify different national security or law enforcement risks in direct access to numbering applications than the ones associated with other types of applications (such as section 214 applications).

C. Post-Grant Ownership Changes

20. In the *VoIP Direct Access Order,* the Commission required each interconnected VoIP provider that has obtained direct access to numbers to maintain the accuracy of all contact information and certifications in its application and file a correction with the Commission and each applicable state within thirty (30) days of the change of contact information or certification. We propose clarifying that VoIP providers that have received direct access to numbers must also submit an update to the Commission and each applicable state within 30 days of any change to the ownership information submitted to the Commission, including any change to the name, address, citizenship and/or principal business of any person or entity that directly or indirectly owns at least ten percent of the equity or voting interests, or a controlling interest of the applicant, or to the percentage of equity and/or voting interests held by each of those entities. We preliminarily believe that obtaining such updates will help us to ensure that the ownership does not change post-authorization in a manner that evades the purpose of application review, for instance by introducing a bad actor-owner that facilitates unlawful robocalling, poses a threat to national security, evades or abuses intercarrier compensation requirements, or otherwise engages in conduct detrimental to the public interest. We seek comment on this proposal. Are there other benefits to receiving updated ownership information? What are the costs to providers or others of updating the Commission and applicable states, particularly on small businesses? As with updated contact and certification information, we propose to clarify that the Commission may use updated ownership information to determine whether a change in authorization status is warranted. We seek comment on our proposal. We also propose to delegate authority to the Bureau to direct the Numbering Administrator to suspend number requests if the Bureau determines that further review of the authorization is necessary.

21. We seek comment on whether we should expand, contract, or alter the specific scope of information we propose to require. Should we require updates on information that does not appear in the underlying application, and if so what information? We also seek comment on whether we should establish a materiality threshold for updates so that we do not burden VoIP providers with submitting updates that are unlikely to be important. For instance, should we require providers to update the ownership percentage of specific entities whose ownership has already been disclosed to the Commission only if that change exceeds a numerical threshold, such as an increase or decrease of 10 percent or more of total ownership interest?

22. We seek comment on whether we should specify the method of filing or format for post-authorization updates regarding changes to contact information, certifications, and

ownership information. The *VoIP Direct Access Order* and the rules adopted by the Commission in that Order do not specify how providers should submit updates. We propose requiring providers to submit any required post-authorization updates to the Commission via the ''Submit a Non-Docketed Filing'' module in the Electronic Comment Filing System (ECFS) established for the VoIP Direct Access proceeding (Inbox—52.15 VoIP Numbering Authorization Application) and via email to *DAA@fcc.gov,* our email alias for VoIP direct access to numbers applications. We preliminarily believe that this approach will facilitate informed and timely review by interested members of the public and Commission staff, and we seek comment on this proposal. Should we specify the means by which applicants must update applicable states, and if so how? Should we require applicants to submit diagrams illustrating their ownership structure with their applications and with any required post-application updates?

D. Compliance With State Law

23. As the Commission has explained, requiring interconnected VoIP providers that obtain numbers directly from the Numbering Administrator to comply with the same numbering requirements as carriers will help ''ensure competitive neutrality among providers of voice services.'' As a condition of obtaining a Commission authorization, interconnected VoIP providers must ''comply with guidelines and procedures adopted pursuant to numbering authority delegated to the states.'' The 2015 *VoIP Direct Access Order* references requiring compliance with specific forms of numbering authority delegated to the states with respect to number reclamation, area code relief, and thousands-block pooling. Because of that reference, there has been some confusion regarding whether interconnected VoIP providers with direct access to numbers must comply with state requirements other than those specifically identified in the Order. We seek comment whether we should revise our existing rules to clarify that interconnected VoIP providers holding a Commission numbering authorization must comply with state numbering requirements and other applicable requirements for businesses operating in the state. Is the fact that some interconnected VoIP providers provision non-fixed, or nomadic, services relevant in determining compliance with state requirements? We also seek comment on whether we should we require minimal state contacts to obtain numbering resources in a particular state. Finally, we seek comment whether it is necessary to clarify that the Bureau may direct the Numbering Administrator to deny requests for numbers from an interconnected VoIP provider that has failed to comply with state requirements. We note that we do not propose to address classification of interconnected VoIP services or states' general authority to regulate interconnected VoIP service, and we view these matters as beyond the scope of this proceeding.

E. Bureau Authority To Review Applications

24. We also propose to clarify that even once the procedural requirements have been met, the Bureau retains the authority to determine when an application is ready to be put out on an Accepted-for-Filing Public Notice based on public interest considerations, subject to the limits of the Administrative Procedure Act. We seek comment on our proposal. The *VoIP Direct Access Order* requires Bureau staff to review VoIP Numbering Authorization Applications for conformance with procedural rules, and ''assuming the applicant satisfies this initial procedural rule,'' then directs the Bureau staff to ''assign the application its own case-specific docket number and release an 'Accepted-For-Filing Public Notice,' seeking comment on the application.'' The Commission's rules permit the Bureau to halt the auto-grant process for a number of reasons, including when ''the Bureau determines that the request requires further analysis to determine whether a request of authorization for direct access to numbers would serve the public interest.'' Though we believe the Commission and the Bureau currently have the authority to withhold placing an application on streamlined processing that meets procedural requirements if the application raises public interest concerns, including concerns regarding illegal robocalling, arbitrage, and foreign ownership, we propose to make this authority explicit.

25. The Commission directed and delegated authority to the Bureau ''to implement and maintain the authorization process.'' The technological development and exponential growth of IP-based services has many potential benefits to consumers, including the development of innovative products and services and competitive pricing for such services. However, coupled with that innovation is an increase in the ease with which bad actors can engage in harmful and illegal robocalling and other fraudulent activity. The ease with which bad actors are able to form new entities, coupled with the rise in illegal and harmful robocalling since the adoption of the *VoIP Direct Access Order* in 2015, counsels us to propose clarifying explicitly that we delegate authority to the Bureau to determine at its discretion when it is appropriate to release an Accepted-For-Filing Public Notice, based on public interest considerations. We seek comment on this proposal. We propose clarifying that the Bureau may withhold issuance of an Accepted-for-Filing Public Notice based on, for instance, concerns regarding an applicant's (or an applicant's principals' or owners') involvement in illegal or harmful robocalling schemes or regulatory arbitrage. We seek comment on our proposal.

26. We also propose to explicitly delegate authority to the Bureau to reject an application for authorization for direct access to numbers if any applicant (or its owners or affiliates) has engaged in behavior contrary to public interest or been found to originate or transmit illegal robocalls by the Commission, industry-led registered consortium, or state or Federal authorities. The Commission has already found that ''at the Bureau's discretion, certain past violations may serve as a basis for denial of an application, such as, for example, repeated or egregious violations or instances of fraud or misrepresentation to the Commission.'' We propose to clarify the Commission's existing delegation to confirm that the Bureau may reject an application, at its discretion, by an entity which it has a reasonable basis to believe has engaged in behavior contrary to the public interest, including but not limited to, entity or entities that have been found to transmit illegal robocalls by the Commission, industry-led registered consortium, or state or Federal authorities. We seek comment on this proposal. Should we adopt more specific rules or standards for when the Bureau rejects and application based on these reasons, and if so, what rules or standards should we adopt? We believe that this explicit delegation will enable the Commission to more effectively guard against bad actors gaining access to numbering resources, which then may be ''stranded'' by the taint of harmful robocalling and contribute to number exhaust. Do commenters agree?

27. The *VoIP Direct Access Order* states that the Commission may revoke direct access to numbers for failure to comply with the Commission's numbering rules. We propose clarifying

that the Commission may also revoke authorization for failure to comply with any applicable law, where a provider no longer meets the qualifications that originally provided the basis for the grant of direct access to numbers, or where the authorization no longer serves the public interest (*e.g.,* due to a national security risk or risk of originating numerous unlawful robocalls), and we seek comment on this proposal. In our preliminary view, revoking authorization in such circumstances is appropriate to protect the public and preserve the limited pool of numbers. To facilitate efficient revocation where necessary, we propose to delegate authority to the Bureau to revoke authorizations where warranted pursuant to the standards we establish. The Commission's Bureaus and Offices have revoked licenses and authorizations where warranted and within the scope of their authority. We propose clarifying that if a provider's authorization is revoked, it may not obtain any new numbers directly from the Numbering Administrator. Should we also require the provider to return numbers that it has already obtained directly, or would such a requirement be too disruptive to end-user customers? To provide VoIP providers subject to revocation with appropriate due process, we propose to require the Bureau to provide a party subject to revocation with notice setting forth the proposed basis for revocation and an opportunity to respond to the allegations prior to revoking authorization, consistent with the requirements in 5 U.S.C. 558(c). We also propose to clarify that the Bureau may direct the Numbering Administrator to defer action on new requests for numbers by a provider on an interim basis during the pendency of any investigation or review of corrections or updates submitted, or proceeding to revoke authorization, and we seek comment on this proposal. We view such interim authority as necessary to allow the agency to respond nimbly to new risks that emerge.

F. Expanding Direct Access to Numbering Resources

28. We seek comment whether we should expand the Commission's authorization process for direct access to numbers to one-way VoIP providers or other entities that use numbers. Currently, only interconnected VoIP providers may apply for and thereby receive a Commission authorization for direct access to numbers. While the Commission stated that it ''may consider permitting other types of entities to obtain numbers directly from the Numbering Administrators in the future,'' it declined to do so in the *VoIP Direct Access Order,* finding that it lacked an adequate record regarding the appropriate terms and conditions for obtaining numbers for entities other than interconnected VoIP providers. We seek comment whether there is a need for direct access to numbering resources for entities other than interconnected VoIP providers, including one-way VoIP providers. How do one-way VoIP providers and other entities use numbering resources?

29. We seek comment on the potential benefits and risks of allowing one-way VoIP providers and other entities direct access to numbering resources. Would enabling such entities to request and directly access numbering resources promote competition among providers and services? What impact would enabling direct access to numbering resources for such entities have on number exhaust? We also seek comment on whether allowing other entities to access numbering resources directly could aid in enforcement efforts against illegal robocalling. Would enabling such entities direct access to numbering resources make it easier or harder to perform tracebacks and monitor bad actors? If the Commission were to permit other entities to apply for authorization for direct access to numbers, should the Commission impose the same conditions and requirements for access as it does for interconnected VoIP providers? If not, what requirements should we adopt? Our rules require interconnected VoIP providers, as a condition of maintaining their authorization for direct access to numbers to ''continue to provide their customers the ability to access 911 and 711,'' and to ''give their customers access to Commission-designated N11 numbers in use in a given rate center where an interconnected VoIP provider has requested numbering resources, to the extent that the provision of these dialing arrangements is technically feasible.'' Are such requirements technically feasible for providers of one-way VoIP and other services? If not, would enabling such entities direct access to numbering resources cause customer confusion with respect to critical short dialing codes? Are there additional conditions that would be necessary to protect against illegal robocalling, number exhaust, and other public interest harms for one-way VoIP providers and other entities?

G. Expected Benefits and Costs

30. The proposals in this *FNPRM* generally reflect a mandate from the TRACED Act. We request comments on the relative costs and benefits of different means of achieving the goals mandated by the statute. With regard to benefits, the Commission found in the *TRACED Act Section 6(a) Order and FNPRM,* 85 FR 22029 (Apr. 21, 2020) and 85 FR 22099 (Apr. 21, 2020), that widespread deployment of STIR/SHAKEN will increase the effectiveness of the framework for both voice service providers and their subscribers, producing a potential benefit floor of $13.5 billion due to the reduction in nuisance calls and fraud. In addition, that Order identified many non-quantifiable benefits, such as restoring confidence in incoming calls and reliable access to emergency and healthcare communications. The proposals in this *FNPRM* are intended, consistent with the TRACED Act, to make progress in unlocking those expected benefits, among others.

31. With regard to costs, we expect that the minimal costs imposed on applicants by our proposed clarification changes will be far exceeded by the benefit to consumers, which we estimate to be a substantial share of the $13.5 billion annual benefit floor. Moreover, as the Commission stated in the *TRACED Act Section 6(a) Order and FNPRM,* an overall reduction in robocalls will greatly lower network costs by eliminating both the unwanted traffic and the labor costs of handling numerous customer complaints. In addition, the proposed clarifications to the direct access application process will minimize staff time and review, thereby minimizing cost. We therefore tentatively conclude that the proposals in this *FNPRM* will impose only a minimal cost on direct access applicants while having the overall effect of lowering network costs and raising consumer benefits. We seek comment on this tentative conclusion. We also seek detailed comments on the costs of the proposals in this *FNPRM.* What are the costs associated with each proposed change? Will these costs vary according to the size of the direct access applicant? Do the benefits of our proposals outweigh the costs in each case?

H. Legal Authority

32. We propose concluding that section 251(e)(1) of the Communications Act of 1934, as amended (the Act), which grants us ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States,'' provides us with authority to adopt our proposals. In the *VoIP Direct Access Order,* the Commission concluded that section 251(e)(1) provided it with authority ''to

extend to interconnected VoIP providers both the rights and obligations associated with using telephone numbers.'' The Commission also has relied on section 251(e)(1) to require interconnected and one-way VoIP providers to (1) implement the STIR/SHAKEN caller ID authentication framework and (2) allow customers to reach the National Suicide Prevention Lifeline by dialing 988 beginning no later than July 16, 2022. Consistent with the Commission's well-established reliance on section 251(e) numbering authority with respect to VoIP providers, we propose concluding that section 251(e)(1) allows us to further refine our processes governing direct access to numbers by interconnected VoIP providers, and we seek comment on this proposal. We similarly propose concluding that, just as section 251(e)(1) provides the Commission with authority to require one-way VoIP providers to implement 988 and STIR/SHAKEN, section 251(e)(1) provides us with authority to authorize and regulate direct access to numbers by one-way VoIP providers and other entities that use numbering resources, and we seek comment on this proposal. Consistent with the *VoIP Direct Access Order,* we propose concluding that refining our application and post-application direct access processes would not conflict with sections 251(b)(2) or 251(e)(2) of the Act, and we seek comment on this proposal.

33. We propose concluding that section 6(a) of the TRACED Act provides us with additional authority to adopt our proposals related to fighting illegal robocalls. Section 6(a)(1) directs that not later than 180 days after the date of the enactment of the Act, the Commission shall commence a proceeding to determine how Commission policies regarding access to number resources, including number resources for toll-free and non-toll-free telephone numbers, could be modified, including by establishing registration and compliance obligations, and requirements that providers of voice service given access to number resources take sufficient steps to know the identity of the customers of such providers, to help reduce access to numbers by potential perpetrators of violations of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)).

The Commission commenced the proceeding as required in March 2020 (*TRACED Act Section 6(a) Order and FNPRM,* 85 FR 22029 (Apr. 21, 2020) and 85 FR 22099 (Apr. 21, 2020)), and this *FNPRM* expands on those inquiries. Section 6(a)(2) of the TRACED Act states that ''[i]f the Commission determines under paragraph (1) that modifying the policies described in that paragraph could help achieve the goal described in that paragraph, the Commission shall prescribe regulations to implement those policy modifications.'' We propose concluding that section 6(a) of the TRACED Act, by directing us to prescribe regulations implementing policy changes to reduce access to numbers by potential perpetrators of illegal robocalls, provides an independent basis to adopt the changes we propose to the direct access process with respect to fighting unlawful robocalls, and we seek comment on this proposal. Should we interpret section 6(a) of the TRACED Act as an independent grant of authority on which we may rely here? Section 6(b) of the TRACED Act authorizes imposition of forfeitures on certain parties found in violation ''of a regulation prescribed under subsection (a),'' which we preliminarily conclude supports our proposal to find that section 6(a) of the TRACED Act is an independent grant of rulemaking authority. Should we codify or adopt any regulations to implement the forfeiture authorization in section 6(b) of the TRACED Act, and if so, what regulations should we adopt?

II. Initial Regulatory Flexibility Analysis

34. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the potential policy and rule changes that the Commission seeks comment on in this *FNPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as specified in the *FNPRM.* The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

35. In the TRACED Act, Congress directed the Commission to examine whether and how to modify its policies to reduce access to numbers by potential perpetrators of illegal robocalls. Consistent with Congress's direction, the *FNPRM* proposes to update our rules regarding direct access to numbers by providers of interconnected VoIP services to help stem the tide of illegal robocalls. Today, widely available VoIP software allows malicious callers to make spoofed calls with minimal experience and cost. Therefore, as we continue to refine our process for allowing VoIP providers direct access to telephone numbers, we must account both for the benefits of competition and the potential risks of allowing bad actors to leverage access to numbers to harm Americans.

36. The Commission first began to allow interconnected VoIP providers to obtain numbers for customers directly from the Numbering Administrator rather than relying on a carrier partner in 2015. Based on our experience since that time, the *FNPRM* proposes to adopt clarifications and guardrails to better ensure that VoIP providers that obtain the benefit of direct access to numbers comply with existing legal obligations and do not facilitate illegal robocalls, pose national security risks, or evade or abuse intercarrier compensation requirements.

37. To provide additional guardrails to safeguard the Nation's finite numbering resources, protect consumers, curb illegal and harmful robocalling, and further promote public safety, we propose and seek comment on a number of modifications to our rules establishing the authorization process for interconnected VoIP providers' direct access to numbering resources. First, to help curb illegal and spoofed robocalls and improve the ability of Commission staff to safeguard the public interest and operate efficiently when reviewing VoIP direct access to numbers applications and continue protecting the public interest, the *FNPRM* proposes to require additional certifications as part of the direct access application process and clarify existing requirements. Second, to help address the risk of providing access to our numbering resources and databases to bad actors abroad, the *FNPRM* proposes clarifying that applicants must disclose foreign ownership information. Third, we propose clarifying that holders of a Commission direct access authorization must update the Commission and applicable states within 30 days of any change to the ownership information submitted to the Commission. We preliminarily believe that obtaining such updates will help us to ensure that the ownership chain does not change post-authorization in a manner that evades the purpose of application review, for instance by introducing a bad actor-owner that facilitates unlawful robocalling, poses a threat to national

security, evades or abuses intercarrier compensation requirements, or otherwise engages in conduct detrimental to the public interest.

38. Fourth, we seek comment on whether we need to revise our rules to clarify that holders of a Commission direct access authorization must comply with state numbering requirements and other applicable requirements. Fifth, we propose to clarify that the Bureau retains the authority to determine when to release an Accepted-for-Filing Public Notice based on public interest considerations, and we propose to explicitly delegate authority to the Bureau to reject an application for direct access authorization if an applicant has engaged in behavior contrary to public interest or been found to originate or transmit illegal robocalls by the Commission, Industry Traceback Group, or state or Federal authorities. The technological development and exponential growth of IP-based services has many potential benefits to consumers, including the development of innovative products and services and competitive pricing for such services. However, coupled with that innovation is an increase in the ease with which bad actors can engage in harmful and illegal robocalling and other fraudulent activity. The ease with which bad actors are able to form new entities, coupled with the rise in illegal and harmful robocalling since the adoption of the *VoIP Direct Access Order* in 2015, counsels us to propose clarifying explicitly that we delegate authority to the Bureau to determine at its discretion when it is appropriate to release an Accepted-For-Filing Public Notice, based on public interest considerations. Further, we preliminarily believe that this explicit delegation will enable the Commission to more effectively guard against bad actors gaining access to numbering resources, which then may be ''stranded'' by the taint of harmful robocalling and contribute to number exhaust. Finally, we seek comment whether we should expand the direct access to numbers authorization process to one-way VoIP providers or other entities that use numbers.

B. Legal Basis

39. The legal basis for any action that may be taken pursuant to this *FNPRM* is contained in sections 1, 3, 4, 201–205, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, 251, 303(r), and section 6(a) of the TRACED Act, Public Law 116–105, sec. 6(a)(1)–(2), 133 Stat. 3274, 3277 (2019).

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

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

41. *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 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 percent of all businesses in the United States, which translates to 30.7 million businesses.

42. 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.

43. 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.

1. Wireline Carriers

44. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) 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.

45. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable North American Industry Classification System (NAICS) Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

46. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission

nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred seven (1,307) incumbent LECs reported that they were incumbent LEC providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

47. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for IXCs. The closest applicable NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

48. *Competitive Local Exchange Carriers (Competitive LECs). Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of competitive LECs, CAPs, shared-tenant service providers, and other local service providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive LEC services or CAP services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are shared-tenant service providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are other local service providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, shared-tenant service providers, and other local service providers are small entities.

49. *Local Resellers.* The SBA has not developed a small business size standard specifically for local resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNO) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of local resellers are small entities.

50. *Toll Resellers.* The Commission has not developed a definition for toll resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

2. Wireless Carriers

51. *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 of 1000 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.

52. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018, there are 265 cellular licensees that will be affected by our actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged

in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

3. Other Entities

53. *Internet Service Providers (Broadband).* Broadband internet service providers include wired (*e.g.,* cable, digital subscriber line (DSL)) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of wired telecommunication carriers. Wired telecommunications carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 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. Consequently, under this size standard the majority of firms in this industry can be considered small.

54. *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.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

55. The proposals in the *FNPRM* may create new or additional reporting or recordkeeping and/or other compliance obligations on small entities, if adopted. Specifically, the *FNPRM* seeks comment on proposals to impose additional certification requirements with respect to robocall mitigation, 911, CALEA, and other public safety compliance requirements, and, if adopted, could impose additional reporting and compliance obligations on entities. As part of the direct access application process, the *FNPRM* also proposes to require applicants to file proof of compliance with Commission Form 477 and 499 filing requirements, if applicable, and to provide sufficient technical information to demonstrate that it provides interconnected VoIP services. The *FNPRM* also proposes to require a direct access applicant or authorization holder to inform relevant Commission staff if the applicant is later subject to a Commission, law enforcement, or regulatory agency action, investigation, or inquiry due to its robocall mitigation plan being deemed insufficient or problematic, or due to suspected unlawful robocalling or spoofing, and to acknowledge this requirement it its application. In addition, the *FNPRM* seeks comment on any changes we should make to our direct access authorization rules to protect against access stimulation schemes.

56. The *FNPRM* proposes to require applicants for a Commission direct access authorization to disclose information, including the name, address, country of citizenship, and principal business of every person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities to the nearest one percent, and also to certify in their applications ''as to whether or not the applicant is, or is affiliated with, a foreign carrier.'' The *FNPRM* also proposes to clarify that VoIP providers that have received direct access to numbers must also submit an update to the Commission and each applicable state within 30 days of any change to the ownership information submitted to the Commission, including any change to the name, address, citizenship and/or principal business of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, or to the percentage of equity owned by each of those entities. In addition, the *FNPRM* seeks comment whether we should revise our existing rules to clarify that interconnected VoIP providers holding a Commission numbering authorization must comply with state numbering requirements and other applicable requirements.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

57. 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.''

58. The *FNPRM* proposes and seeks comment on a number of clarifications to the Commission's rules establishing the VoIP direct access to numbering resources authorization process. We anticipate that the additional certainty that these clarifications will provide will likely benefit small entities through lowered compliance costs. More specifically, we anticipate that clarifying what information must be included with an application, when ownership changes must be reported, and the scope of the Bureau's review authority, will better enable small entities to understand what is required of them, streamlining the application process.

59. Regarding the proposals in the *FNPRM,* we seek comment on alternatives that the Commission consider, the impact of the proposals on small businesses, as well as the competitive impact of the proposals on VoIP providers applying for a Commission authorization for direct access to numbering resources. We also seek comment on how the proposals can protect the Nation's numbering resources and minimize unwanted and illegal robocalls, both of which we anticipate would benefit interconnected VoIP providers. We seek comment on the costs and benefits associated with

our proposals in the *FNPRM.* We expect to consider the economic impact on small entities as part of review of comments filed in response to the *FNPRM* and this IFRA.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

60. None.

III. Procedural Matters

61. *Regulatory Flexibility Act.* The RFA, requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an IRFA concerning potential rule and policy changes contained in this *FNPRM.*

62. *Paperwork Reduction Act.* This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

63. *Comment Period and Filing Requirements.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's ECFS. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

64. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, 35 FCC Rcd 2788, 2788–89 (OS 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

65. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

66. The proceeding this *FNPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

67. *Contact Person.* For further information about this proceeding, please contact Jordan Reth, FCC Wireline Competition Bureau, Competition Policy Division, at (202) 418–1418, or *Jordan.Reth@fcc.gov.*

IV. Ordering Clauses

68. Accordingly, *it is ordered* that, pursuant to sections 1, 3, 4, 201–205, 251, and 303(r) of the Communications Act of 1934, 47 U.S.C. 151, 153, 154, 201–205, 251, 303(r), and section 6(a) of the TRACED Act, Public Law 116–105, sec. 6(a)(1)–(2), 133 Stat. 3274, 3277 (2019), this *Further Notice of Proposed Rulemaking is adopted.*

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

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2021–18175 Filed 9–13–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531, 533, 536, and 537

[NHTSA–2021–0053, NHTSA–2021–0054]

RIN 2127–AM34

Public Hearing for Corporate Average Fuel Economy Standards for Model Years 2024–2026 Passenger Cars and Light Trucks

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notification of public hearing.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is

announcing a virtual public hearing to be held October 13, 2021, on its proposal for the ''Corporate Average Fuel Economy Standards for Model Years 2024–2026 Passenger Cars and Light Trucks,'' which was signed on August 5, 2021, and published in the **Federal Register** on September 3, 2021. This hearing also allows the public to provide oral comments regarding the Draft Supplemental Environmental Impact Statement that accompanies the proposal. An additional session will be held on October 14, if necessary, to accommodate the number of people who sign up to provide oral comments. NHTSA is proposing to revise the corporate average fuel economy (CAFE) standards for passenger cars and light trucks for model years 2024 through 2026 to make the standards more stringent.

DATES: NHTSA will hold a virtual public hearing on October 13, 2021. An additional session will be held on October 14, if necessary, to accommodate the number of people who sign up to testify. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: The public hearing will be held virtually on October 13, 2021. An additional session will be held on October 14, if necessary, to accommodate the number of people who sign up to testify. The hearing will convene at 9:30 a.m. Eastern time and will conclude when the last pre-registered speaker has testified but no later than 8:00 p.m. Eastern time. All hearing attendees, including those who do not intend to provide testimony, should preregister by October 7, 2021. The link to register will be available at *https://www.nhtsa.gov/cafe.* Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: To register to attend the hearing, please contact NHTSA's Office of Communications at *NHTSA.Communication@dot.gov.* To speak to someone about the proposal, please contact Vinay Nagabhushana, Fuel Economy Division, Office of Rulemaking, NHTSA, at (202) 366–1452.

SUPPLEMENTARY INFORMATION: NHTSA is proposing to revise the corporate average fuel economy (CAFE) standards for passenger cars and light trucks built in model years 2024 through 2026 to make the standards more stringent. On January 20, 2021, President Biden issued Executive Order 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,'' directing NHTSA to consider whether to propose suspending, revising, or rescinding the standards previously set forth under the ''The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks,'' promulgated in April 2020 (hereafter, ''the 2020 final rule''). The 2020 final rule set standards that increased at a rate of 1.5 percent per year for this time period. Based on our updated assessment, NHTSA is proposing, under the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act, to revise the CAFE standards to be more stringent than the 2020 final rule standards in each model year for 2024 through 2026. In addition, NHTSA is also proposing certain technical amendments to clarify and streamline our compliance regulations. The proposed revised standards would conserve much more energy, save much more fuel, and thus save consumers money and improve our nation's energy security over time. The ''Corporate Average Fuel Economy Standards for Model Years 2024–2026 Passenger Cars and Light Trucks'' proposal was signed on August 5, 2021, and was published in the **Federal Register** on September 3, 2021 (86 FR 49602). The proposal and accompanying documents are available in Docket ID No. NHTSA–2021–0053. A notice of availability for the accompanying Draft Supplemental Environmental Impact Statement (Draft SEIS) was published in the **Federal Register** on August 20, 2021 (86 FR 46847). The Draft SEIS is available on NHTSA's CAFE website, *https://www.nhtsa.gov/cafe,* and is also available in Docket ID No. NHTSA–2021–0054. The public comment period for the proposed rule is scheduled to conclude on October 26, 2021.

Participation in Virtual Public Hearing

Please note that NHTSA is deviating from its typical approach for public hearings. Because of current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, NHTSA is not holding in-person public meetings at this time.

NHTSA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please follow the instructions below. The last day to pre-register to speak at the hearing will be October 7, 2021.

- *To watch the hearing (without providing oral comments):* Click the link at *https://www.nhtsa.gov/cafe* and register. Indicate NO on the registration page that you do not wish to provide testimony. Within 24 hours of registering, you will be emailed your link to join.
- *To comment at the hearing:* Click the link at *https://www.nhtsa.gov/cafe* and register by October 7. Indicate YES on the registration page that you would like to provide comments. Within 24 hours of registering, you will be emailed your link to join. Additionally, you will receive an email on October 11 with your approximate time to testify, and additional information about how to turn on your audio and camera to comment. We recommend you join via a computer, but if you are unable to do so, an option to join via phone will also be provided in that email.

If you do not receive your confirmation email(s), or have further questions about this hearing, please email *NHTSA.Communication@dot.gov.* NHTSA is committed to providing equal access to this event for all participants. Closed captioning will be available. People with disabilities who need additional accommodations should send a request to *NHTSA.Communication@dot.gov* no later than October 7.

Each commenter will have 3 minutes to provide oral testimony. NHTSA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. NHTSA recommends submitting the text of your oral comments as written comments to the rulemaking docket or to the Draft SEIS docket, as appropriate. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. If identical comments are submitted by the same commenter more than once to the docket, NHTSA does not consider those comments to carry more weight than if they had been submitted only once. If the oral testimony is specifically intended to reference the Draft SEIS, please mention that in your opening remarks.

Please note that any updates made to any aspects of the hearing logistics, including any change to the date of the hearing or a potential additional session on October 14, 2021, will be posted on NHTSA's website, *https://www.nhtsa.gov/cafe.* While NHTSA expects the hearing to go forward as set forth above, please monitor our website or contact us via the email address listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. NHTSA does not intend to publish a document in the

Federal Register announcing updates. Finally, NHTSA will post a video of the hearing at *http://www.nhtsa.gov/cafe* and will make a transcript of the hearing available in the rulemaking docket as soon as practicable.

How can I get copies of the proposed action, the Draft Supplemental Environmental Impact Statement, and other related information?

NHTSA has established a docket for the proposal under Docket ID No. NHTSA–2021–0053 and a separate docket for the Draft SEIS at Docket ID No. NHTSA–2021–0054. Relevant documents and information can also be accessed at NHTSA's CAFE website, at *https://www.nhtsa.gov/cafe.* Please refer to the notice of proposed rulemaking for detailed information on accessing information related to the proposal and the Draft SEIS.

Issued on September 9, 2021, in Washington, DC, under authority delegated in 49 CFR 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2021–19799 Filed 9–10–21; 11:15 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 22

[Docket No. FWS–HQ–MB–2020–0023; FF09M2200–212–FXMB12320900000]

RIN 1018–BE70

Eagle Permits; Incidental Take

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service, or we) seeks public and regulated-community input on potential approaches for further expediting and simplifying the permit process authorizing incidental take of eagles. This document also advises the public that the Service may, as a result of public input, prepare a draft environmental review pursuant to the National Environmental Policy Act of 1969, as amended. We are furnishing this advance notice of proposed rulemaking to advise other agencies and the public of our intentions and obtain suggestions and information on the scope of issues to include in the environmental review. Public and regulated community responses will be used to improve and make more efficient the permitting process for incidental take of eagles in a manner that is compatible with the preservation of bald and golden eagles.

DATES: You may submit comments on or before October 29, 2021. We will consider all comments on this advance notice of proposed rulemaking, including the scope of the draft environmental review, that are received or postmarked by that date. Comments received or postmarked after that date will be considered to the extent practicable.

ADDRESSES: You may submit written comments by one of the following methods:

Electronically: Go to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Search for FWS–HQ–MB–2020–0023, which is the docket number for this document, and follow the directions for submitting comments.

By hard copy: Submit by U.S. mail to: Public Comments Processing, Attn: FWS–HQ–MB–2020–0023, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only one of the methods described above. We will post all information received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Availability of Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT: Jerome Ford, Assistant Director, Migratory Birds, at 202–208–1050. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking seeks comment on several approaches that could potentially underpin a more streamlined eagle incidental-take-permitting framework that we first established in 2009. Specifically, the Service is interested in comments clarifying specific aspects of the current permitting process that hinder permit application, processing, or implementation. The Service is also seeking recommendations for additional guidance the Service could develop that would reduce the time and/or cost associated with applying for and implementing long-term, eagle incidental take permits under existing regulations. The Service further invites recommendations for targeted revisions that could be made to existing regulations consistent with the overall permitting framework that would reduce the time and/or cost associated with applying for and processing long-term permits for incidental take of eagles. Finally, the Service is interested in comments regarding potential new regulatory approaches to authorizing incidental take under the Eagle Act, particularly for projects that can be shown in advance to have minimal impacts on eagles, that would reduce the time and/or cost associated with applying for and operating under long-term permits for the incidental take of eagles.

I. Background

The Bald and Golden Eagle Protection Act (Eagle Act; 16 U.S.C. 668–668d) prohibits take of bald eagles and golden eagles except pursuant to Federal regulations. Service regulations in title 50 of the Code of Federal Regulations, consistent with the Eagle Act (16 U.S.C. 668c), define ''take'' as to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb (50 CFR 22.3). The Eagle Act authorizes the Secretary of the Interior to issue regulations to permit the taking of eagles for various purposes, provided the taking is compatible with the preservation of the bald eagle or the golden eagle. Regulations at 50 CFR 22.3 define ''compatible with the preservation of the bald eagle or the golden eagle'' as ''consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units [EMUs] and the persistence of local populations throughout the geographic range of each species.'' Permits for the incidental, or unintentional, take of eagles were established in 2009 (74 FR 46877, Sep. 11) to authorize incidental take of bald and golden eagles that results from a broad spectrum of activities, such as utility infrastructure, energy development, construction, operation of airports, and resource recovery (50 CFR 22.26).

In 2016, the Service published a final rule (81 FR 91494, Dec. 16, 2016) revising the regulations to lengthen the maximum permit tenure from 5 years to 30 years and require a review of permit implementation periodically throughout the lifetime of the permit at intervals no longer than 5 years. For most projects, the Service assumes the actual take at a project will be less than the level of take initially authorized under a permit, which will result in a reduction in required offsetting mitigation measures over time. This is because initial estimates of eagle fatalities are purposely conservative to reduce the likelihood of a permittee exceeding their authorized level of take, and to ensure

the Service does not exceed the EMU take limits. The 2016 regulations also require specific methods for preconstruction eagle surveys and fatality modeling for wind-energy facilities, the industry with the largest demand for long-term, incidental take eagle permits.

The 2016 regulations provide uniform standards for offsetting take of eagles when authorized take would exceed the sustainable take rate determined by the Service. To preserve bald and golden eagles, the Service surveys eagle populations, estimates population levels, and estimates the level of take, or mortality, each population can withstand without significantly declining. When the sustainable take rate is predicted to be exceeded by a permitted project, the regulations require the permittee to offset excess authorized take by reducing another form of mortality to eagles or increasing the carrying capacity of the population. The standards apply whether the offsetting mitigation is achieved via direct implementation by the permittee, an in-lieu fee program, or a mitigation bank. The Service has approved two privately developed in-lieu fee programs and is working with other entities to make additional third-party mitigation programs available to simplify the permit process for permittees.

In conjunction with revising the permit regulations in 2016, the Service prepared a comprehensive programmatic environmental impact statement (PEIS) that analyzed the Service's overall permitting program for eagles. The PEIS established the sustainable take limits described above for both species of eagle and evaluated the effects of programmatically issuing permits within those take limits under the conditions included in the regulations. The Service determined that bald eagles could sustain additional mortality and established a nationwide sustainable take limit of 7,500 individuals per year. In contrast, given the status of the North American golden eagle population, the Service concluded that no additional mortality could be authorized without risking population declines. Therefore, additional take would not be consistent with the eagle preservation standard required by the Eagle Act. To remedy this issue, all new take of golden eagles authorized under permit must be offset by conservation measures that will reduce another form of ongoing mortality or enhance population numbers to a commensurate degree.

Because the PEIS analyzed the cumulative impacts of permitting up to the established sustainable take levels, the Service is able to tier environmental analyses required under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) from the PEIS, enabling the Service to significantly accelerate the permitting process for complex, long-term projects, such as wind-energy facilities, while continuing to preserve eagles consistent with the Eagle Act.

At the same time, human development and infrastructure continue to increase in the United States, and bald eagle populations continue to grow throughout their range. The result of these trends is an increasing number of interactions between eagles and industrial infrastructure and a corresponding need for the Service to process more applications for incidental take of eagles. The Service and the regulated community share an interest in introducing further efficiencies into the eagle incidental-take-permitting process to meet this demand, while preserving bald and golden eagles pursuant to the Eagle Act.

II. Action Requested From the Public

We seek comments or suggestions from the public, governmental agencies, Tribes, the scientific community, industry, or any other interested parties. Should the Service promulgate a proposed rule and prepare a draft environmental review pursuant to NEPA, we will take into consideration all comments and any additional information received. The Service will act as the lead Federal agency responsible for completion of any environmental review resulting from this notice. To ensure that any proposed rulemaking effectively evaluates all potential issues and impacts, this document seeks the public's and regulated community's input on what changes could be made to the Service's eagle incidental-take-permitting program (50 CFR 22.26) to make the permitting process more efficient and effective. Any input should be consistent with statutory provisions of the Eagle Act and compatible with the preservation of eagles. The Service recommends that anyone planning to provide input first review the Service's 2016 rulemaking (81 FR 91494, Dec. 16, 2016) and the PEIS discussed above; both documents are available on *http://www.regulations.gov* under Docket No. FWS–HQ–MB–2020–0023 (*https://www.regulations.gov/docket/FWS-HQ-MB-2020-0023/document*).

The Service is interested in the public's and regulated community's responses to the following questions:

1. Are there specific protocols, processes, requirements, or other aspects of the current permitting process for incidental take of eagles that hinder permit application, processing, or implementation?

As an example, the Service has heard from some companies that the requirement that monitoring under long-term permits be carried out by independent third parties is not feasible or is prohibitively expensive. Additional details on these costs, including circumstances that increase third-party-monitoring costs, would be helpful.

2. What additional guidance, protocols, analyses, tools, or other efficiencies could the Service develop that would reduce the time and/or cost associated with applying for, implementing, and conducting monitoring associated with long-term permits for incidental take of eagles under existing regulations? What are the estimated costs of the suggested additional efficiencies, and how do those costs compare to industry's current practices?

The Service is currently working on guidance for fatality monitoring at wind-energy facilities, standards for using power-pole retrofits as offsetting mitigation, revised protocols for minimizing disturbance of nesting bald eagles, golden eagle nest-buffer guidance, and reduced or more-streamlined permitting requirements in areas where the risk of take is low. We seek input on any additional tools and guidance the Service could develop to improve the permitting process.

One concept the Service is considering that will potentially reduce required monitoring costs under the existing regulations is ''pooled'' post-construction monitoring of a selected subset of permitted projects. The Service could explore creation of an opportunity for permitted facilities to contribute funding the Service would use to direct post-construction monitoring across participating projects. Such a program would work by implementing monitoring in a systematic, stratified fashion across participating projects, eliminating the need for each project to implement a stand-alone third-party monitoring program yet still satisfying the permittee's post-construction monitoring requirements. We are seeking feedback on the concept of pooled monitoring; in particular:

- Would prospective eagle incidental take permittees take advantage of this opportunity?
- If so, how important are the tradeoffs between the cost of pooled

monitoring and obtaining project-specific fatality estimates?

• Is monitoring at a randomly selected subset of projects an acceptable alternative to monitoring at every project from the standpoint of ensuring the permit program is reasonably protective of bald and golden eagle populations?

3. What targeted revisions could be made to existing regulations consistent with the overall permitting framework and PEIS that would reduce the time and/or cost associated with applying for and processing long-term permits for incidental take of eagles?

4. Are there potential new regulatory approaches to authorizing incidental take under the Eagle Act, particularly for projects that can be shown in advance to have minimal impacts on eagles, that would reduce the time and/or cost associated with applying for and operating under long-term permits for incidental take of eagles?

For example, we have received proposals for a new, regulatory approach to further streamline the permitting process for incidental take of eagles by establishing a ''nationwide'' or ''general'' permit program similar to the U.S. Army Corps of Engineers (USACE) Nationwide Permit Program (NWP program) for authorizing impacts to wetlands and other waters of the United States. Those permits can provide expedited or even eliminate review of proposed activities that have only minimal individual and cumulative adverse environmental effects.

The USACE system for analyzing the environmental effects of its NWP program is much more complex and resource-intensive than the Service's current eagle permitting framework under the 2016 PEIS. The USACE uses a three-tiered approach in administering its NWP program, and ensuring that activities authorized by NWPs have no more than minimal individual and cumulative adverse environmental effects. For applicants under the majority of NWPs that require preconstruction notification, the data requirements entailed in completing the preconstruction notification are not insubstantial. Applicants must provide detailed information regarding proposed activities, their potential impacts, avoidance and minimization measures, and compensatory-mitigation commitments. Considering the complexity of the USACE program, we seek further input as to which aspects of the NWP program industry and the public are most interested in the Service emulating in our eagle-permitting program, as well as those aspects not recommended.

A fundamental principle of the USACE nationwide permit program is that it is available only to activities that will have minimal impacts both individually and cumulatively. The concept of a general permit for incidental take of eagles could, in theory, similarly apply only to situations with minimal potential adverse effects on eagle populations, individually and cumulatively. Unlike wetland acreage lost under a USACE nationwide permit which can be monitored once to assess loss, obtaining a reasonably accurate estimate of eagle incidental take requires systematic monitoring of project impacts through-time. A challenge for adopting the general permit concept for eagle incidental take permits is the uncertainty over the actual effects of such permits, individually and cumulatively, on eagle populations.

To reduce this level of uncertainty, the Service has required permitted facilities to implement monitoring protocols at a level sufficient to generate a reasonably reliable estimate of the actual take caused by the facility. To reduce the cost to industry as well as manage impacts to eagles (prior to accounting for offsetting mitigation measures), the Service could limit general permits to geographic areas with relatively lower numbers of eagles and require a reduced monitoring effort. Monitoring could be designed purely to detect whether eagle take is below a certain level, rather than to arrive at a reasonable estimate of the actual take level. We estimate the average monitoring burden to achieve this standard would be reduced by 50 percent from current requirements. The Service has developed maps of relative abundance of both species of eagle across the coterminous United States using a variety of datasets (see Ruiz-Gutierrez et al., 2021 and *https://www.fws.gov/migratorybirds/pdf/management/Lowriskwebex.ppsx*), These maps could serve as the basis for where general permits would be available. Comparing data from the U.S. Geological Survey wind-turbine database (Hoen et al. 2018), it appears that approximately 40 percent of existing wind-energy facilities would fall into areas the Service would consider low risk based on relative numbers of both species of eagles. We encourage feedback on the concept of a general permit that would be available in areas of relatively low eagle abundance and that would still include systematic monitoring, but at a reduced level, and whether companies would seek to obtain such permits. We also seek feedback on how a general permit would impact small businesses and whether it would result in cost savings compared to the current permit process. An alternative option would be to restrict general permits to projects seeking authorization only for take of bald eagles and not golden eagles. Available data indicate that bald-eagle populations are continuing to expand throughout their range. Therefore, a permitting scheme with some decrease in the level of certainty as to actual effects on bald eagles might be justified to reduce the burden on the regulated community. A significant complicating factor to consider, however, is the likelihood that a project authorized under a general permit to take bald eagles may also incidentally take golden eagles.

Another concept for a streamlined general permit would be to eliminate systematic monitoring. Tracking eagle take would consist of permittees reporting all mortalities discovered opportunistically during normal operations and maintenance activities, but there would be no systematic fatality monitoring under a scientifically rigorous protocol. As described above, the take levels on these permits would need to be substantially higher than the level of take reported to account for the uncertainty regarding the actual take level of the permitted activity. We estimate that the probability of finding a dead eagle, if one has been killed, given the level of opportunistic monitoring at a typical wind energy facility, is approximately 10 to 15 percent. Even at the higher end of this range, with a 15 percent probability of detecting a dead eagle, the opportunistic finding of one eagle over any time period would result in a fatality estimate of approximately 10 eagles, with an 80 percent uncertainty range (credible interval) of from 1 to 15 dead eagles. Cumulatively, over many such permitted facilities, the uncertainty regarding actual take would be compounded. For example, if the Service permitted 10 such separate facilities, each with one eagle fatality found over the first 5 years, we could only be relatively certain that actual fatalities at those projects combined did not exceed 150 eagles over the 5-year period.

This approach would introduce uncertainties into take estimates, requiring higher levels of authorized take, which would in turn necessitate more offsetting mitigation and affect overall take limits at the local area and EMU scales. Currently, the U.S. Fish and Wildlife Service has only approved retrofitting of power lines to avoid electrocution as a compensatory mitigation measure in permits that have been issued, and this form of mitigation can cost greater than $30,000 per individual eagle replaced (Hosterman and Lane 2017).

We welcome feedback on the topics described above and how some of the issues raised might be resolved. In addition, we would appreciate hearing from the public about other alternative proposals for how the Service could develop and administer a general permit program for incidental take of eagles that will, with reasonable certainty, protect eagles consistent with the Eagle Act.

It is the policy of the Department of the Interior to recognize and fulfill its legal obligations to identify, protect, and conserve the trust resources of federally recognized Indian Tribes and Tribal members, and to consult with Tribes on a government-to-government basis whenever plans or actions affect Tribal trust resources, trust assets, or tribal health and safety. This policy draws from the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments,'' and the Department of the Interior Manual at 512 DM 4. These documents confirm our trust responsibilities to Tribes, recognize that Tribes have sovereign authority to control Tribal lands, emphasize the importance of developing partnerships with Tribal governments, and direct the Services to consult with Tribes on a government-to-government basis. Relative to our considerations for improving the permitting process for incidental take of eagles, we request comments that clarify appropriate consideration of Tribal sovereignty, including any agreements in which Tribes may choose to participate in consultation.

5. We are seeking data to estimate the current industry costs on pre-application/pre-construction surveys for eagles, monitoring requirements of the permit itself, including paying for required third party monitors, and compensatory mitigation. We are seeking data on how costs will change if additional efficiencies are implemented. We are also requesting the submission of data regarding the number and type of small businesses affected, the scale and nature of economic effects in the current permitting process, and how costs would change for small businesses if additional efficiencies are implemented.

Literature Cited

Hoen, B.D., Diffendorfer, J.E., Rand, J.T., Kramer, L.A., Garrity, C.P., and Hunt, H.E., 2018, United States Wind Turbine Database (ver. 2.3, January 2020): U.S. Geological Survey, American Wind Energy Association, and Lawrence Berkeley National Laboratory data release, *https://doi.org/10.5066/F7TX3DN0.*

Hosterman, H., Lane, D., 2017. Proxies for the market value of bald and golden eagles: Final report (Contract Report to U.S. Fish and Wildlife Service No. F14PA000019). Abt Associates, Portland, OR.

Ruiz-Gutierrez, V., E.R. Bjerre, M.C. Otto, G. S. Zimmerman, B.A. Millsap, D. Fink, E.F. Stuber, M. Strimas-Mackey, and O.J. Robinson. 2021. A pathway for citizen science data to inform policy: A case study using EBIRD data for defining low-risk collision areas for wind energy development. Journal of Applied Ecology 58:1104–1111.

Public Availability of Comments

Written comments the Service receives become part of the public record associated with this action. Comments and materials we receive, as well as supporting documentation we used in preparing this document, will be available for public inspection on *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Signing Authority

The Assistant Secretary for Fish and Wildlife and Parks 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 the Interior. Shannon Estenoz, Assistant Secretary for Fish and Wildlife and Parks, approved this document on September 1, 2021, for publication.

Maureen D. Foster,

Chief of Staff, Office of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–19717 Filed 9–13–21; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 86, No. 175

Tuesday, September 14, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—School Nutrition and Meal Cost Study–II

AGENCY: Food and Nutrition Service, Agriculture (USDA).

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection for the School Nutrition and Meal Cost Study–II (SNMCS–II; OMB control number 0584–0648, expiration date 09/30/2022), with updated data collection instruments for school year (SY) 2022–2023. The purpose of SNMCS–II is to provide a comprehensive picture of school food service operations and the nutritional quality, cost, and acceptability of meals served in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

DATES: Written comments on this notice must be received on or before November 15, 2021.

ADDRESSES: Comments may be sent to: Holly Figueroa, Office of Policy Support, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Pl., 5th Floor, Alexandria, VA 22314. Comments may also be submitted via fax to the attention of Holly Figueroa at 703–305–2576 or via email to *holly.figueroa@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Holly Figueroa at *holly.figueroa@usda.gov* or 703–305–2105.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: School Nutrition and Meal Cost Study–II.

Form Number: N/A.

OMB Number: 0584–0648.

Expiration Date: 09/30/2022.

Type of Request: Revision of a currently approved collection.

Abstract: SNMCS–II will provide a comprehensive picture of the NSLP and SBP, and will provide critical information about the nutritional quality, cost, and acceptability of school meals ten years after major reforms began being phased in during the 2012–2013 school year (SY). SNMCS–II will collect a broad range of data from nationally representative samples of public school food authorities (SFAs), public, non-charter schools, students, and parents/guardians during SY 2022–2023. Data collection was originally scheduled to occur in SY 2019–2020 but was postponed due to the COVID–19 pandemic. These data will provide Federal, State, and local policymakers with current information about how federally sponsored school meal programs are operating by updating the information that was collected in SY 2014–2015 for the first School Nutrition and Meal Cost Study (SNMCS–I; OMB control number 0584–0596, expiration date 07/31/2017). In addition, findings from SNMCS–II will be compared to those from SNMCS–I to explore trends in key domains including the nutrient content of school meals, meal costs and revenues, and student participation, plate waste, and dietary intakes. SNMCS–II will also estimate the costs of producing reimbursable school meals in up to five States and Territories outside of the 48 contiguous States and the District of Columbia (DC), and examine the relationship of costs to revenues in those five outlying areas. Section 28(a) of the Richard B. Russell National School Lunch Act authorizes this assessment of the cost of producing meals, and the nutrient profile of meals under the NSLP and SBP.

The sample frame of SFAs is divided into four groups, including the outlying areas. Samples in Groups 1, 2, and 3 are limited to the contiguous 48 States and DC. The outlying areas sample includes SFAs in Alaska, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands. Two assessments to determine the feasibility of collecting comprehensive cost data in the outlying areas were conducted between 2018 and 2019 under OMB #0584–0606 FNS Generic Clearance for Pre-Testing, Pilot, and Field Test Studies, expiration date 06/30/2022 (School Nutrition and Meal Cost Study–II, Outlying Areas Cost Study Feasibility Assessment and School Nutrition and Meal Cost Study–II, Outlying Areas Cost Study Feasibility Reassessment). Based on these assessments, ''full'' data collection will be conducted with Alaska, Guam, and Hawaii, while ''limited'' data collection will be conducted with Puerto Rico and the U.S. Virgin Islands. The burden associated with these assessments is not included in the burden estimates for this collection.

Data collected from the Group 1 sample will provide the precision required for national estimates of SFA-level characteristics and food service operations. Data collected from the Group 2 sample will be used to address study objectives related to the school nutrition environment and food service operations; the food and nutrient content of school meals; student participation in the NSLP and SBP; student/parent satisfaction with the school meal programs; and students'

characteristics and dietary intakes. Data collected from the Group 3 sample will be used to address study objectives related to the school nutrition environment and food service operations; the food and nutrient content of school meals; the costs to produce reimbursable school lunches and breakfasts, including indirect and local administrative costs, and the ratios of revenues to costs; and plate waste in the school meals programs. Data collected from the outlying areas sample will be used to estimate the costs of producing reimbursable school meals and the ratios of revenues to costs in each outlying area.

Note: Personally identifiable information (PII) will not be used to retrieve survey records or data.

Affected Public: State, Local, and Tribal Governments respondent groups include: (1) State Child Nutrition Agency directors; (2) State Education Agency finance officers; (3) school district superintendents; (4) SFA directors; (5) local educational agency business managers; (6) menu planners; (7) school nutrition managers (SNMs); (8) principals; and (9) school study liaisons appointed by principals. Private Sector For-Profit Business respondents include food service management company managers. Individual/household-level respondents include: (1) Students (first grade through high school) and (2) their parents/guardians.

Estimated Number of Respondents: A total of 15,017 unique respondents (9,583 respondents and 5,434 non-respondents) are expected to participate in the study. This includes 4,939 from State and Local Governments, 30 from Businesses, and 10,048 Individuals or Households. Initial contact will vary by type of respondent and may include study notification, recruiting, or data collection.

The Group 1 sample includes 136 SFAs but no schools. Group 1 SFA directors will participate in the SFA Director Survey.

The Group 2 sample comprises 133 SFAs, 265 schools, and 2,177 students and their parents/guardians. SFA and school staff will participate in the SFA Director and School Planning Interviews; SFA Director, SNM, and Principal Surveys; the Basic Menu Survey and Meal Pattern Crediting Report; and Cafeteria Observation Guide and Competitive Foods Checklists. Students and parents/guardians will complete the Student Interview, including height and weight measurement; 24-dietary recall; and Parent Interview.

The Group 3 sample includes 265 SFAs and 796 schools. SFA and school staff will participate in the SFA Director and School Planning Interviews; SFA On-Site Cost Interview and Food Cost Worksheet; SFA Follow-Up Web Survey and Cost Interview; SNM Cost Interview; Principal Cost Interview; SFA Director, SNM, and Principal Surveys; the Expanded Menu Survey and Meal Pattern Crediting Report; and Cafeteria Observation Guide and Competitive Foods Checklists. Forty-one State Education Agency finance officers will complete the State Agency Indirect Cost Survey. Plate waste will be observed for 4,140 reimbursable lunches and 2,120 reimbursable breakfasts at a subsample of 138 schools among this Group 3 sample.

In the outlying areas, following recruitment, SFA and school staff in 32 SFAs and 138 schools will complete the SFA Director and School Planning Interviews; SFA Cost Interview and Food Cost Worksheet; SFA Follow-Up Web Survey and Cost Interview; SNM Cost Interview; Principal Cost Interview; and the Expanded Menu Survey. One State Education Agency finance officer will complete the State Agency Indirect Cost Survey.

Estimated Number of Responses per Respondent: All respondents will be asked to respond to each specific data collection activity only once. The overall average number of responses per respondent across the entire collection is 5.43 (81,502 responses/15,017 total respondents).

Estimated Total Annual Responses: 81,502.

Estimated Time per Response: The estimated response varies from 1 minute to 10 hours, depending on the data collection activity and respondent group, with an average estimated time of 21 minutes (0.3435 hours) across all respondents.

Estimated Total Annual Burden on Respondents: 27,996 hours. This includes 26,562 hours for respondents and 1,434 hours for non-respondents. See the table below for each type of respondent.

Cynthia Long,

Acting Administrator, Food and Nutrition Service.

BILLING CODE 3410–30–P

					Responsive					Non-Responsive					
Affected Public	Type of respondents	Instruments	Document	Sample	Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Burden Hours per Response	Total Annual Burden Estimate (hours)	Estimated Number of Non-respondents	Frequency of Response	Total Annual Responses	Average Burden Hours per Response	Total Annual Burden Estimate (hours)	Grand Total Annual Burden Estimate (hours)
State/Local Government	State Child Nutrition Agency Directors (Groups 1, 2, 3)	Recruitment (Groups 1, 2, 3)	State Child Nutrition Director Study Introduction and Data Request Email	49	49	1	49	0.334	16.37	0	0	0	0.00	0.00	16.37
			Study Objectives	49	49	1	49	0.0334	1.64	0	0	0	0.00	0.00	1.64
			SFA Director Sample Notification Email From State CN Director	49	49	1	49	0.0334	1.64	0	0	0	0.00	0.00	1.64
	State Child Nutrition Agency Directors (Full Outlying Areas)	Recruitment (Full Outlying Areas)	State Child Nutrition Director Study Introduction and Data Request Email	3	3	1	3	0.334	1.00	0	0	0	0.00	0.00	1.00
			Study Objectives and Overview	3	3	1	3	0.0334	0.10	0	0	0	0.00	0.00	0.10
			SFA Director Sample Notification Email	3	3	1	3	0.0334	0.10	0	0	0	0.00	0.00	0.10
	State Child Nutrition Agency Directors (Limited Outlying Areas)	Recruitment (Limited Outlying Areas)	State Child Nutrition Director Study Introduction and Data Request Email	2	2	1	2	0.334	0.67	0	0	0	0.00	0.00	0.67
			Study Objectives and Overview	2	2	1	2	0.0334	0.07	0	0	0	0.00	0.00	0.07
			SFA Director Sample Notification Email	2	2	1	2	0.0334	0.07	0	0	0	0.00	0.00	0.07
	State Education Agency Finance Officers (Group 3)	Indirect Cost Survey (Group 3)	State Agency Indirect Cost Survey Invitation Letter/Email	49	40	2	80	0.0334	2.67	9	2	18	0.0223	0.40	3.07
			State Agency Indirect Cost Survey	49	40	1	40	0.167	6.68	9	1	9	0.0223	0.20	6.88
			Study Overview	49	40	1	40	0.0334	1.34	9	1	9	0.0223	0.20	1.54

State Education Agency Finance Officers (Full Outlying Areas)	Indirect Cost Survey (Full Outlying Areas)	State Agency Indirect Cost Survey Invitation Letter/Email	1	1	2	2	0.0334	0.07	0	0	0	0.0000	0.00	0.07
		State Agency Indirect Cost Survey	1	1	1	1	0.167	0.17	0	0	0	0.0223	0.00	0.17
		Study Overview	1	1	1	1	0.0334	0.03	0	0	0	0.0223	0.00	0.03
Superintendents (Group 2, 3)	Recruitment (Groups 2, 3)	Recruiting Call Script	528	424	1	424	0.5	212.00	104	1	104	0.0668	2.75	214.75
Superintendents (Full Outlying Areas)	Recruitment (Full Outlying Areas)	Recruiting Call Script	32	32	1	32	0.5	16.00	0	0	0	0.0000	0.00	16.00
Superintendents (Limited Outlying Areas)	Recruitment (Limited Outlying Areas)	Recruiting Call Script	2	2	1	2	0.5	1.00	0	0	0	0.0000	0.00	1.00
SFA Directors (Groups 2, 3)	Recruitment (Groups 2, 3)	SFA Director Recruitment Advance Letter/Email	528	424	2	848	0.0334	28.32	104	2	208	0.0334	6.95	35.27
		SNA Endorsement Letter	528	424	1	424	0.0334	14.16	104	1	104	0.0334	3.47	17.64
		Study Overview	528	424	1	424	0.0334	14.16	104	1	104	0.0334	3.47	17.64
		Recruiting Call Script	528	424	1	424	0.5	212.00	104	1	104	0.0668	6.95	218.95
	Data Collection Coordination (Groups 2, 3)	SFA Director Planning Interview	424	424	1	424	0.334	141.62	0	0	0	0.00	0.00	141.62
		SFA Post-Planning Email	424	424	1	424	0.167	70.81	0	0	0	0.00	0.00	70.81
		Pre-Visit Reminder Email	424	424	1	424	0.0501	21.24	0	0	0	0.00	0.00	21.24
SFA Directors (Group 2)	Data Collection Coordination (Group 2)	School Roster Data Request	140	128	1	128	1.00	128.00	12	1	12	0.0668	0.80	128.80

SFA Directors (Group 3)	Data Collection Coordination (Group 3)	Data Collection Activities and Respondents	289	275	1	275	0.0835	22.96	14	1	14	0.0835	1.17	24.13
	Cost Interview (Group 3)	SFA On-Site Cost Interview with Reference Guide, provide records	289	275	1	275	3.0835	847.96	14	1	14	0.0668	0.94	848.90
		Food Cost Worksheet	289	275	1	275	0.167	45.93	14	1	14	0.0668	0.94	46.86
	Follow-up Web Survey (Group 3)	SFA Follow-Up Web Survey and Interview Planning Email	275	275	1	275	0.0501	13.78	0	0	0	0.00	0.00	13.78
		SFA Follow-Up Web Survey	275	261	1	261	0.5	130.50	14	1	14	0.0668	0.94	131.44
	Follow-up Cost Interview (Group 3)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	275	261	1	261	2.00	522.00	14	1	14	0.0668	0.94	522.94
SFA Directors (Groups 1, 2, 3)	SFA Director Survey (Group 1)	SFA Director Survey Advance Letter/Email	151	136	2	272	0.0501	13.63	15	2	30	0.0501	1.50	15.13
		SFA Director Survey Email Invitation	151	136	1	136	0.0167	2.27	15	1	15	0.0167	0.25	2.52
	SFA Director Survey (Groups 2, 3)	SFA Director Survey Email Invitation	424	393	1	393	0.0167	6.56	31	1	31	0.0167	0.52	7.08
	SFA Director Survey (Group 1)	SFA Director Survey	151	136	1	136	0.668	90.85	15	1	15	0.0668	1.00	91.85
	SFA Director Survey (Groups 2, 3)	SFA Director Survey	424	393	1	393	0.668	262.52	31	1	31	0.0668	2.07	264.59
	SFA Director Survey (Groups 1, 2, 3)	SFA Director Survey Follow-Up Email	575	288	2	575	0.0668	38.41	288	2	575	0.0668	38.41	76.82
		SFA Director Survey Reminder Call Script	287	287	1	287	0.0835	23.96	0	0	0	0.00	0.00	23.96
SFA Directors (Full Outlying Areas)	Recruitment (Full Outlying Areas)	SFA Director Recruitment Advance Letter/Email	32	32	2	64	0.0334	2.14	0	0	0	0.00	0.00	2.14
		Study Overview	32	32	1	32	0.0334	1.07	0	0	0	0.00	0.00	1.07
		Recruiting Call Script	32	32	1	32	0.5	16.00	0	0	0	0.00	0.00	16.00
		SNA Endorsement Letter	31	31	1	31	0.0334	1.04	0	0	0	0.00	0.00	1.04
		SFA Director Planning Interview	32	32	1	32	0.9018	28.86	0	0	0	0.00	0.00	28.86

	Data Collection Coordination (Full Outlying Areas)	SFA Post-Planning Email	32	32	1	32	0.167	5.34	0	0	0	0.00	0.00	5.34
		Data Collection Activities and Respondents	32	32	1	32	0.0835	2.67	0	0	0	0.00	0.00	2.67
		Pre-Target Week Reminder Email	32	32	1	32	0.0501	1.60	0	0	0	0.00	0.00	1.60
	Cost Interview (Full Outlying Areas)	SFA On-Site Cost Interview with Reference Guide, provide records	32	30	1	30	3.0835	92.51	2	1	2	0.0668	0.13	92.64
		Food Cost Worksheet	32	30	1	30	0.167	5.01	2	1	2	0.0668	0.13	5.14
	Follow-up Web Survey (Full Outlying Areas)	SFA Follow-Up Web Survey and Interview Planning Email	30	30	1	30	0.0501	1.50	0	0	0	0.00	0.00	1.50
		SFA Follow-Up Web Survey	30	30	1	30	0.5	15.00	0	0	0	0.0000	0.00	15.00
	Follow-up Cost Interview (Full Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	30	30	1	30	2.00	60.00	0	0	0	0.0000	0.00	60.00
SFA Directors (Limited Outlying Areas)	Recruitment (Limited Outlying Areas)	SFA Director Recruitment Advance Letter/Email	2	2	2	4	0.0334	0.13	0	0	0	0.00	0.00	0.13
		Study Overview	2	2	1	2	0.0334	0.07	0	0	0	0.00	0.00	0.07
		Recruiting Call Script	2	2	1	2	0.5	1.00	0	0	0	0.0000	0.00	1.00
	Data Collection Coordination (Limited Outlying Areas)	SFA Director Planning Interview	2	2	1	2	0.167	0.33	0	0	0	0.00	0.00	0.33
		SFA Post-Planning Email	2	2	1	2	0.167	0.33	0	0	0	0.00	0.00	0.33
		Data Collection Activities and Respondents	2	2	1	2	0.0835	0.17	0	0	0	0.00	0.00	0.17
		Pre-Target Week Reminder Email	2	2	1	2	0.0501	0.10	0	0	0	0.00	0.00	0.10

	Cost Interview (Limited Outlying Areas)	SFA On-Site Cost Interview with Reference Guide, provide records	2	2	1	2	1.5	3.00	0	0	0	0.0000	0.00	3.00
		Food Cost Worksheet	2	2	1	2	0.167	0.33	0	0	0	0.0000	0.00	0.33
	Follow-up Web Survey (Limited Outlying Areas)	SFA Follow-Up Web Survey and Interview Planning Email	2	2	1	2	0.0501	0.10	0	0	0	0.00	0.00	0.10
		SFA Follow-Up Web Survey	2	2	1	2	0.5	1.00	0	0	0	0.0000	0.00	1.00
	Follow-up Cost Interview (Limited Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	2	2	1	2	1.75	3.50	0	0	0	0.0000	0.00	3.50
	Menu Survey (Limited Outlying Areas)	Expanded Menu Survey	2	2	1	2	3.5	7.00	0	0	0	0.0000	0.00	7.00
SFA Directors	SFA Directors	Pretest	5	5	1	5	1.5000	7.50	0	0	0	0.0000	0.00	7.50
LEA Business Managers (Group 3)	Cost Interview (Group 3)	SFA On-Site Cost Interview, provide records	289	275	1	275	3.0835	847.96	14	1	14	0.0668	0.94	848.90
	Follow-up Cost Interview (Group 3)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	275	261	1	261	2.00	522.00	14	1	14	0.0668	0.94	522.94
LEA Business Managers (Full Outlying Areas)	Cost Interview (Full Outlying Areas)	SFA On-Site Cost Interview, provide records	32	30	1	30	3.0835	92.51	2	1	2	0.0668	0.13	92.64
	Follow-up Cost Interview (Full Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	30	30	1	30	2.00	60.00	0	0	0	0.0000	0.00	60.00
LEA Business Managers (Limited Outlying Areas)	Cost Interview (Limited Outlying Areas)	SFA On-Site Cost Interview, provide records	2	2	1	2	1.5	3.00	0	0	0	0.00	0.00	3.00
	Follow-up Cost Interview (Limited Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	2	2	1	2	1.75	3.50	0	0	0	0.00	0.00	3.50
Menu Planners (Group 2, 3)	Meal Pattern Crediting Report (Groups 2, 3)	Fruit and Vegetable Questions & Meal Pattern Crediting Report	424	402	1	402	1.5	603.00	22	1	22	0.0668	1.47	604.47

Subtotal of State CN Agency Directors, SFA Directors, Business Managers, Superintendents, and Menu Planners			**2,131**	**1,861**	**5.15**	**9,590**	**0.5529**	**5,302.52**	**270**	**5.54**	**1,495**	**0.05**	**77.60**	**5380.12**
School Nutrition Managers	School Nutrition Managers	Pretest	5	5	1	5	1.50	7.50	0	0	0	0.0668	0.00	7.50
School Nutrition Managers (Groups 2, 3)	Data Collection Coordination (Groups 2, 3)	SNM Introduction Letter	1,117	1,061	1	1,061	0.1336	141.75	56	1	56	0.1336	7.48	149.23
	Data Collection Coordination (Groups 2, 3)	Pre-Visit Reminder Email	1,117	1,061	1	1,061	0.0501	53.16	56	1	56	0.0501	2.81	55.96
	Cafeteria Observation (Groups 2, 3)	Cafeteria Observation Guide	1,061	1,061	1	1,061	0.334	354.37	0	0	0	0.00	0.00	354.37
School Nutrition Managers (Group 2)	Menu Survey (Group 2)	Basic Menu Survey	279	265	1	265	8.00	2120.00	14	1	14	0.0668	0.94	2120.94
	School Nutrition Managers Survey (Group 2)	SNM Survey	279	265	1	265	0.334	88.51	14	1	14	0.0668	0.94	89.45
	Reimbursable Meal Sales Data (Group 2)	Reimbursable Meal Sale Data Request Form	265	265	1	265	0.167	44.26	0	0	0	0.00	0.00	44.26
	Point of Sale Form (Group 2)	Point-of-Sale Form	265	265	1	265	0.0835	22.13	0	0	0	0.00	0.00	22.13
School Nutrition Managers (Group 3)	Menu Survey (Group 3)	Expanded Menu Survey	838	796	1	796	10.00	7960.00	42	1	42	0.0668	2.81	7962.81
	School Nutrition Managers Survey (Group 3)	SNM Survey	838	796	1	796	0.334	265.86	42	1	42	0.0668	2.81	268.67
	Data Collection Coordination (Group 3)	School Planning Interview	838	796	1	796	0.25	199.00	42	1	42	0.0668	2.81	201.81
	Cost Interview (Group 3)	SNM Cost Interview with Reference Guide	838	796	1	796	1.5	1194.00	42	1	42	0.0668	2.81	1196.81
	Self-Serve/Made-to-Order Bar Form (Group 3)	On-Site Self-Serve/Made-to-Order Bar Form	191	181	1	181	0.167	30.23	10	1	10	0.0668	0.67	30.90

	Plate Waste Observation (Group 3)	Plate Waste Observation Booklet	138	138	1	138	0.167	23.05	0	0	0	0.00	0.00	23.05
School Nutrition Managers (Full Outlying Areas)	Data Collection Coordination (Full Outlying Areas)	SNM Introduction Letter	145	138	1	138	0.1336	18.44	7	1	7	0.00	0.00	18.44
	Data Collection Coordination (Full Outlying Areas)	School Planning Interview	145	138	1	138	0.0668	9.22	7	1	7	0.0668	0.47	9.69
		Pre-Target Week Reminder Email	145	138	1	138	0.0501	6.91	7	1	7	0.0501	0.35	7.26
	Menu Survey (Full Outlying Areas)	Expanded Menu Survey	145	138	1	138	8.334	1150.09	7	1	7	0.0668	0.47	1150.56
	Cost Interview (Full Outlying Areas)	SNM Cost Interview with Reference Guide	145	138	1	138	1.5	207.00	7	1	7	0.0668	0.47	207.47
School Liaisons (Group 2)	Data Collection Coordination (Group 2)	School Planning Interview	279	265	1	265	0.25	66.25	14	0	0	0.00	0.00	66.25
		Pre-Visit Reminder Email	265	265	1	265	0.0501	13.28	0	0	0	0.00	0.00	13.28
		School Roster Data Request	74	74	1	74	1.00	74.00	0	0	0	0.00	0.00	74.00
Subtotal of School Nutrition Managers and School Liaisons			**1,546**	**1,469**	**6.16**	**9,045**	**1.5532**	**14,049.00**	**77**	**4.58**	**353**	**0.07**	**25.80**	**14074.80**
Principals (Groups 2, 3)	Data Collection Coordination (Groups 2, 3)	Principal Intro Letter to Schools	1,117	1,061	1	1,117	0.1336	149.23	56	1	56	0.1336	7.48	156.71
		Pre-Visit Reminder Email	1,117	1,061	1	1,117	0.0501	55.96	56	1	56	0.0501	2.81	58.77
	Principal Survey (Groups 2, 3)	Principal Surveys Email Invitation	1,061	954	1	1,061	0.0167	17.72	107	1	107	0.0167	1.79	19.51
		Principal Survey Follow-Up Email	1,061	1,061	2	2122	0.0668	141.75	0	0	0	0.00	0.00	141.75
		Principal Survey Reminder Call Script	530	530	1	530	0.0835	44.26	0	0	0	0.00	0.00	44.26
		Principal Survey	1,061	954	1	954	0.5	477.00	107	1	107	0.0668	7.15	484.15

	Principals (Group 2)	Data Collection Coordination (Group 2)	Next Steps for Principals Email	265	265	1	265	0.0334	8.85	0	0	0	0.00	0.00	8.85
	Principals (Group 3)	Cost Interview (Group 3)	Principal Cost Interview with Reference Guide	838	796	1	796	0.75	597.00	42	1	42	0.0668	2.81	599.81
	Principals (Full Outlying Areas)	Data Collection Coordination (Full Outlying Areas)	Principal Intro Letter to Schools	145	138	1	138	0.1336	18.44	7	1	7	0.1336	0.94	19.37
		Cost Interview (Full Outlying Areas)	Pre-Target Week Reminder Email	145	138	1	138	0.0501	6.91	7	1	7	0.0334	0.23	7.15
			Principal Cost Interview with Reference Guide	145	138	1	138	0.75	103.50	7	1	7	0.0668	0.47	103.97
Subtotal of Principals				**1,262**	**1,199**	**6.99**	**8,376**	**0.1935**	**1,620.62**	**63**	**6.17**	**389**	**0.06**	**23.66**	**1,644.28**
Subtotal State/Local Governments				**4,939**	**4,529**	**5.96**	**27,011**	**0.7764**	**20,972.14**	**410**	**5.46**	**2,237**	**0.06**	**127.07**	**21,099.20**
Business	FSMC Managers (Groups 2, 3)	Food Service Management Company Manager Recruitment (Groups 2, 3)	FSMC Recruitment Letter	25	25	1	25	0.0334	0.84	0	0	0	0.00	0.00	0.84
			SNA Endorsement	25	25	1	25	0.0334	0.84	0	0	0	0.00	0.00	0.84
			Study Overviews	25	25	1	25	0.0334	0.84	0	0	0	0.00	0.00	0.84
		Food Service Management Company Manager Recruitment (Groups 2, 3)	FSMC Recruiting Call Script	25	25	1	25	0.25	6.25	0	0	0	0.0000	0.00	6.25
	FSMC Managers (Full Outlying Managers)	Food Service Management Company Manager Recruitment (Full Outlying Areas)	SFA Director Recruitment Advance Letter/Email	1	1	2	1	0.0334	0.03	0	0	0	0.00	0.00	0.03
			Study Objectives and Overview	1	1	1	1	0.0334	0.03	0	0	0	0.00	0.00	0.03
		Food Service Management Company Manager	Recruiting Call Script	1	1	1	1	0.5	0.50	0	0	0	0.00	0.00	0.50

		Recruitment (Full Outlying Areas)	Pre-Target Week Reminder Email	1	1	1	1	0.0501	0.05	0	0	0	0.00	0.00	0.05
		Food Service Management Company Manager Cost Interview (Full Outlying Areas)	SFA On-Site Cost Interview with Reference Guide, provide records	1	1	1	1	3.0835	3.08	0	0	0	0.0000	0.00	3.08
			Food Cost Worksheet	1	1	1	1	0.167	0.17	0	0	0	0.0000	0.00	0.17
		Food Service Management Company Manager Follow-up Web Survey (Full Outlying Areas)	SFA Follow-Up Web Survey and Interview Planning Email	1	1	1	1	0.0501	0.05	0	0	0	0.00	0.00	0.05
			SFA Follow-Up Web Survey	1	1	1	1	0.1169	0.12	0	0	0	0.00	0.00	0.12
		Food Service Management Company Manager Follow-up Cost Interview (Full Outlying Areas)	SFA Follow-Up Cost Interview with Reference Guide, provide financial records	1	1	1	1	2.00	2.00	0	0	0	0.0000	0.00	2.00
	FSMC Regional Operations Managers (Full Outlying Managers)	Food Service Management Company Regional Operations Manager Menu Survey (Full Outlying Areas)	Expanded Menu Survey	4	4	1	4	8.3340	33.34	0	0	0	0.0000	0.00	33.34
		Food Service Management Company Regional Operations Manager Cost Interview (Full Outlying Areas)	SNM Cost Interview with Reference Guide	4	4	1	4	1.5	6.00	0	0	0	0.0000	0.00	6.00
Subtotal Businesses				**30**	**30**	**3.90**	**117**	**0.4626**	**54.13**	**0**	**0.00**	**0**	**0.00**	**0.00**	**54.13**
Individual	Parents/Guardians (Group 2)	Parents/Guardians Recruitment (Group 2)	School Endorsement Letter	5,024	2,512	1	2,512	0.0501	125.85	2,512	1	2,512	0.0501	125.85	251.70
			Elementary or Middle/High School Parent (Household) Advance Letter	5,024	2,512	1	2,512	0.0835	209.75	2,512	1	2,512	0.0835	209.75	419.50
			Household Elementary or Middle/High School Brochure	5,024	2,512	1	2,512	0.1336	335.60	2,512	1	2,512	0.1336	335.60	671.21

		Parent Passive Consent Response Form	4,522	2,261	1	2,261	0.1002	226.55	2,261	1	2,261	0.0000	0.00	226.55
		Parent Active Consent Response Form	502	251	1	251	0.1002	25.15	251	1	251	0.0334	8.38	33.53
	Parents/Guardians Parent Interview (Group 2)	Parent Interview Texts and Emails	2,502	2,177	3	6,531	0.0167	109.07	325	3	975	0.0167	16.28	125.35
		Parent Interview	2,512	2,177	1	2,177	0.4175	908.90	335	1	335	0.0668	22.38	931.28
	Parents/Guardians Dietary Recall (Group 2)	Dietary Recall Texts and Emails	1,189	1,005	2	2,010	0.0167	33.57	184	2	368	0.0167	6.15	39.71
		Food Diary, Day 1/ Day 2	1,189	1,005	1	1,005	0.167	167.84	184	1	184	0.0167	3.07	170.91
		Dietary Recall Interview (AMPM, Day 1)	955	860	1	860	0.25	215.00	95	1	95	0.0668	6.35	221.35
		Dietary Recall Interview (AMPM, Day 2)	366	257	1	257	0.75	192.75	109	1	109	0.0668	7.28	200.03
Subtotal of Parents/Guardians			**5,024**	**2,512**	**9.11**	**22,888**	**0.1114**	**2,550.03**	**2,512**	**4.82**	**12,114**	**0.06**	**741.10**	**3,291.12**
Students (Group 2)	Students Recruitment (Group 2)	Study Assent Form	5,024	2,512	1	2,512	0.0501	125.85	2,512	1	2,512	0.0501	125.85	251.70
		Elementary and Middle/High School Student Interview Reminder Flyer	3,488	2,512	1	2,512	0.0167	41.95	976	1	976	0.0167	16.30	58.25
	Students Student Interview (Group 2)	Student Interview	3,488	2,512	1	2,512	0.2004	503.40	976	1	976	0.1336	130.39	633.80
		Dietary Recall Interview, AMPM, Day 1	3,488	2,512	1	2,512	0.8016	2013.62	976	1	976	0.2839	277.09	2290.71
	Students Dietary Recall (Group 2)	Dietary Recall Texts and Emails Day 2	549	384	2	768	0.0167	12.83	165	2	330	0.0167	5.51	18.34
		Dietary Recall Interview (AMPM, Day 2)	549	384	1	384	0.75	288.00	165	1	165	0.0668	11.02	299.02
Subtotal of Students			**5,024**	**2,512**	**4.46**	**11,200**	**0.2666**	**2,985.65**	**2,512**	**2.36**	**5,935**	**0.10**	**566.16**	**3,551.81**
Subtotal Individuals			**10,048**	**5,024**	**6.79**	**34,088**	**0.1624**	**5,535.68**	**5,024**	**3.59**	**18,049**	**0.07**	**1,307.26**	**6,842.94**
Grand Total			**15,017**	**9,583**	**6.39**	**61,216**	**0.43**	**26,561.94**	**5,434**	**3.73**	**20,286**	**0.07**	**1,434.33**	**27,996.26**

Notes: "State" includes both States and Territories.

AMPM = Automated Multiple-Pass Method; CN = child nutrition; FSMC = food service management company; LEA = local educational agency; SFA = school food authority; SNM = school nutrition manager.

[FR Doc. 2021–19722 Filed 9–13–21; 8:45 am]
BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Additional Information To Be Collected Under the Uniform Grant Application Package for Discretionary Grant Programs for the Emergency Food Assistance Program Reach and Resiliency Grants

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: This Notice announces that the United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS) plans to add The Emergency Food Assistance Program (TEFAP) Reach and Resiliency Grants, as authorized by the American Rescue Plan Act, to its list of approved programs under the Uniform Grant Application for Non-Entitlement Discretionary Grants, as approved under OMB Control Number: 0584–0512 (Expiration Date: July 31, 2022); and that FNS intends to collect additional information for the TEFAP Reach and Resiliency Grants outside of what is currently in the uniform package. This Notice solicits public comments on the additional information to be collected for the TEFAP Reach and Resiliency Grants.

DATES: To be assured of consideration, written comments must be submitted or postmarked on or before September 14, 2021.

ADDRESSES:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond.

Comments must be submitted through one of the following methods:

- *Preferred method:* Submit information through the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submissions.
- *Email:* Send comments to *rachel.schoenian@usda.gov* with a subject line ''TEFAP Reach and Resiliency Grant Information Collection.''

FOR FURTHER INFORMATION CONTACT: Rachel Schoenian, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, Virginia 22314, 703–305–2937, or email *rachel.schoenian@usda.gov.*

SUPPLEMENTARY INFORMATION: Utilizing funding and authority provided by Section 1001(b)(4) of the American Rescue Plan Act (ARPA, P.L. 117–2), USDA is establishing a new grant program for State agencies that administer The Emergency Food Assistance Program (TEFAP), aimed at helping strengthen TEFAP infrastructure and expand TEFAP's reach into rural, remote, and/or low-income communities that are underserved by TEFAP.

TEFAP Reach and Resiliency Grants will be offered in two rounds. As planned, half of the funds ($50 million) will be offered to States in Fall 2021. Each TEFAP State agency will be able to apply for a fair share portion of the initial funding according to the TEFAP funding formula at 7 CFR 251.3(h). FNS will use lessons learned from the first round of Reach and Resiliency Grants to determine the best method for offering the second round.

For the first round of grant funding, eligible entities will submit an application using FNS' Uniform Grant Application for Discretionary Grant Programs (OMB Control Number: 0584–0512, Expiration Date: July 31, 2022), which will include up to ten additional questions related to the goals of the Reach and Resiliency grants. These questions will be outlined in the Request for Applications for the TEFAP Reach and Resiliency Grant and be incorporated into the grant application template. State agencies will have the option to use the optional template or any other format to answer the questions. The additional questions included will relate to how TEFAP State agencies will utilize TEFAP Reach and Resiliency grant funding and how the State's project will: (1) Strengthen infrastructure; and (2) expand reach into rural, remote, and/or low-income communities currently underserved by TEFAP in the State. This will include submission of data that identifies those underserved areas. Additional information that State agencies will also need to provide includes the names of anticipated partners, the percentage of funds that will be kept at the State-level, and other information that ensures the proposed use of the grant complies with current program regulations.

To measure impact of the grants and to determine whether the grants achieve their intended purposes, grantees will be required to provide narrative, biannual progress reports using the FNS–908 Performance Progress Report form, as a condition to accepting grant funding. In addition to this standard form, grantees will be asked to respond to two more questions related to progress made toward achieving the goals of the grant program, on a biannual basis. These questions may include updates to any data submitted in the grant application. The two additional questions will be outlined in the Request for Applications for the TEFAP Reach and Resiliency grant. A template submission form will be provided to grantees to report this information, but they will have the option of reporting the information in any format they choose.

With the additional information that will be requested, FNS estimates that each State agency will spend a total of approximately 53.58 hours completing the full grant application package. Under 0584–0512, FNS has 114,431 remaining burden hours and 23,293 remaining responses available for use. Under the TEFAP Reach and Resiliency Grants, State agencies are expected to use 4,763.99 burden hours and 1,458 responses for the pre-award, post-award and recordkeeping burden, including the additional information to be collected. All three items make up the burden for the competitive grants that are submitted under 0584–0512.

This purpose of this Notice is to solicit public comments on the additional information to be collected for the TEFAP Reach and Resiliency Grants through the ten question application questionnaire and through the two question biannual progress reports for the grant program. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond.

FNS will utilize these comments to adjust the information collection as necessary.

Cynthia Long,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2021–19764 Filed 9–13–21; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Urban Forest Engagement in Atlanta, GA

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the USDA Forest Service is seeking comments from all interested individuals and organizations on the extension with revisions of a currently approved information collection, Urban Forest Engagement in Atlanta, Georgia.

DATES: Comments must be received in writing on or before November 15, 2021 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: cassandra.johnson@usda.gov.*
- *Mail:* Cassandra Johnson Gaither, Forestry Sciences Lab, 320 Green Street, Athens, GA 30602.
- *Hand Delivery/Courier:* Cassandra Johnson Gaither, Forestry Sciences Lab, 320 Green Street, Athens, GA 30602.
- *Facsimile:* (706) 559–4266.

The public may inspect comments received at Forestry Sciences Lab, 320 Green Street, Athens, GA 30602, during normal business hours. Visitors are encouraged to call ahead to (706) 559–4270 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Cassandra Johnson Gaither, USDA Forest Service, Southern Research Station, by phone at (706) 559–4270 or email at *cassandra.johnson@usda.gov.* Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Urban Forest Engagement in Atlanta, GA.

OMB Number: 0596–0237.

Expiration Date of Approval: February 28, 2022.

Type of Request: Extension with revisions of a currently approved information collection.

Abstract: This information collection will continue to gather data on City of Atlanta residents' interest in and engagement with the urban forest in the city. This information collection focuses more narrowly on urban forest patches, a collection or stand of trees, in public spaces. Engagement is defined as residents' interest in and awareness of urban forest patches and resident participation in decisions about how the patches should be maintained or repurposed. The information collection also gathers data on social factors such as neighborhood transiency and perception of neighborhood conditions, conceptualized as collective efficacy and social cohesion. The neighborhood conditions data provides information on the broader context from which people make decisions about engaging with urban forest patches. If neighborhood transiency (*i.e.,* frequent involuntary moving of people in and out of neighborhoods) is problematic in communities or people lack basic needs such as access to healthy foods or safe neighborhoods, it is unlikely that they would demonstrate a high degree of engagement with the city's urban forest.

This collection extends the existing information collection effort by examining the environmental justice implications of neighborhood-level decision making about the forest patches. Prior door-to-door data collection in south Atlanta neighborhoods revealed the presence of forest patches on vacant properties. However, there is little to no data on how residents perceive of these spaces or how residents might contribute to decision processes about the outcome of these spaces. This is an important question given the sites are providing ecological benefits such as stormwater mitigation.

For the proposed data collection, survey questions were included on people's awareness of forest patches on vacant properties near their neighborhoods and on potential barriers residents might face in contributing to decision making processes about the patches. Many contextual factors constrain people's ability to engage in local-level environmental decision making, the procedural component of environmental justice. The data collected via this effort will provide important input on factors that might facilitate or constrain engagement and will inform the USDA Forest Service's efforts to address Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad,* and Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.*

Data collection will center on south Atlanta neighborhoods adjacent to vacant land with forest patches. These neighborhoods are overwhelmingly African American, with poverty rates ranging from roughly 30 percent to 64 percent. The neighborhoods are also near multiple transportation companies, the activities of which compromise air quality.

The survey will be conducted at the household, using proportionate-guided random sampling where the survey is left for the appropriate respondent to complete and is picked up later by a survey administrator. This methodology limits contact between the surveyor and the household but provides the in-person contact that is helpful for increasing response rates which are considerably lower in minority communities. Survey administrators will include USDA Forest Service social scientists, neighborhood residents trained in door-to-door data collection methods, and university college students. Researchers with USDA Forest Service Research & Development staff will analyze the data.

If the information proposed herein is not collected, the opportunity to address environmental justice from a procedural perspective will be missed. The information collection also will assist the Agency in better understanding how urban green spaces in southern cities impact residents' quality of life. Comparatively fewer Forest Service led studies have examined this topic for these populations.

Type of Respondents: City of Atlanta residents.

Estimated Annual Number of Respondents: 600.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 120 hours.

Comment Is Invited: Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information

on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for Office of Management and Budget approval.

Dated: September 9, 2021.

Alexander L. Friend,

Deputy Chief, Research & Development.

[FR Doc. 2021–19766 Filed 9–13–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; American Community Survey

AGENCY: Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed extension of the American Community Survey, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 15, 2021.

ADDRESSES: Interested persons are invited to submit written comments by email to *acso.pra@census.gov.* Please reference the American Community Survey in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2021–0019, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dameka Reese, U.S. Census Bureau, American Community Survey Office, 301–763–3804, *dameka.m.reese@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Since its founding, the U.S. Census Bureau has balanced the demands of a growing country requiring information about its people and economy, with concerns for respondents' confidentiality and the time and effort it takes respondents to answer questions. Beginning with the 1810 Census, Congress added questions to support a range of public concerns and uses, and over the course of a century, federal agencies requested to add questions about agriculture, industry, and commerce, as well as individuals' occupation, ancestry, marital status, disabilities, place of birth and other topics. In 1940, the Census Bureau introduced the long-form census in order to ask more detailed questions to only a sample of the public.

In the early 1990s, the demand for current, nationally consistent data from a wide variety of users led federal government policymakers to consider the feasibility of collecting social, economic, and housing data continuously throughout the decade. The benefits of providing current data, along with the anticipated decennial census benefits in cost savings, planning, improved census coverage, and more efficient operations, led the Census Bureau to plan the implementation of the continuous measurement survey, later called the American Community Survey (ACS). After years of testing, the ACS replaced the long form in 2005. The ACS is conducted throughout the United States and in Puerto Rico, where it is called the Puerto Rico Community Survey (PRCS). Each year a sample of approximately 3.5 million households and about 170,000 persons living in group quarters (GQ) in the United States are selected to participate in the ACS and PRCS.

II. Method of Collection

To encourage self-response in the ACS, the Census Bureau sends up to five mailings to housing units selected to be in the sample. The first mailing, sent to all mailable addresses in the sample, includes an invitation to participate in the ACS online and states that a paper questionnaire will be sent in a few weeks to those unable to respond online. The second mailing is a letter that reminds respondents to complete the survey online, thanks them if they have already done so, and informs them that a paper form will be sent at a later date if we do not receive their response. In a third mailing, the questionnaire package is sent only to those sample addresses that have not completed the online questionnaire within two weeks. The fourth mailing is a postcard that reminds respondents to respond and informs them that an interviewer may contact them if they do not complete the survey. A fifth mailing is sent to respondents who have not completed the survey within five weeks. This letter provides a due date and reminds the respondents to return their questionnaires to be removed from future contact. The Census Bureau will ask those who fill out the survey online to provide an email address, which will be used to send an email reminder to households that did not complete the online form. The reminder asks them to log back in to finish responding to the survey. If the Census Bureau does not receive a response or if the household refuses to participate, the address may be selected for computer-assisted personal interviewing (CAPI).

Some addresses are deemed unmailable because the address is incomplete or directs mail only to a post office box. The Census Bureau currently collects data for these housing units using both online and CAPI.

For sample housing units in the Puerto Rico Community Survey (PRCS), a different mail strategy is employed. The Census Bureau continues to use the previously used mail strategy with no references to an internet response option. The Census Bureau sends up to five mailings to a Puerto Rico address selected to be in the sample. The first mailing includes a prenotice letter. The second and fourth mailings include the paper survey. The third and fifth mailings serve as a reminder to respond to the survey. Puerto Rico addresses deemed unmailable because the address is incomplete or directs mail only to a post office box are collected by CAPI.

The Census Bureau employs a different strategy to collect data from GQs. The Census Bureau defines GQs as

places where people live or stay, in a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents, such as college/university student housing, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, workers' group living quarters and Job Corps centers, and emergency and transitional shelters. The Census Bureau collects data for GQs primarily through personal interview. The Census Bureau will obtain the facility information by conducting a personal visit interview with a GQ contact. During this interview, the Census Bureau obtains roster of residents and randomly selects them for person-level interviews. During the person-level phase, an FR uses CAPI automated instrument to collect detailed information for each sampled resident. FRs also have the option to distribute a bilingual (English/Spanish) questionnaire to residents for self-response if unable to complete a CAPI interview.

III. Data

OMB Control Number: 0607–0810.

Form Number(s): ACS–1, ACS–1(SP), ACS–1(PR), ACS–1(PR)SP, ACS–1(GQ), ACS–1(PR)(GQ), GQFQ, ACS CAPI (HU), ACS RI (HU), AGQ QI, and AGQ RI.

Type of Review: Regular submission, Request for an Extension, without Change.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,540,000 for household respondents; 20,000 for contacts in GQ; 170,000 persons in GQ; 43,200 households for reinterview; and 2,000 GQ contacts for reinterview. The total estimated number of respondents is 3,775,200.

Estimated Time per Response: 40 minutes for the average household questionnaire; 15 minutes for a GQ facility questionnaire; 25 minutes for a GQ person questionnaire; 10 minutes for a household reinterview; 10 minutes for a GQ-level reinterview.

Estimated Total Annual Burden Hours: 2,360,000 for household respondents; 5,000 for contacts in GQ; 70,833 for GQ residents 7,200 households for reinterview; and 333 GQ contacts for reinterview. The estimate is an annual average of 2,443,366 burden hours.

TABLE 1—ANNUAL ACS RESPONDENT AND BURDEN HOUR ESTIMATES

Data collection operation	Forms or instrument used in data collection	Annual estimated number of respondents	Estimated minutes per respondent by data collection activity	Annual estimated burden hours
I. ACS Household Questionnaire, Online Survey, Telephone, and Personal Visit.	ACS–1, ACS 1(SP), ACS–1PR, ACS–1PR(SP), Online Survey, Telephone, CAPI.	3,540,000	40	2,360,000
II. ACS GQ Facility Questionnaire CAPI—Telephone and Personal Visit.	CAPI GQFQ	20,000	15	5,000
III. ACS GQ CAPI Personal Interview or Telephone, and Paper Self-response.	CAPI, ACS–1(GQ), ACS–1(GQ)(PR)	170,000	25	70,833
IV. ACS Household Reinterview—CATI/CAPI	ACS HU–RI	43,200	10	7,200
V. ACS GQ-level Reinterview—CATI/CAPI	ACS GQ–RI	2,000	10	333
Totals		3,775,200	N/A	2,443,366

Estimated Annualized Respondent Burden Hours.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Section 141 and 193.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–19805 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Tengiz Sydykov, 2805 8th Street South, Arlington, VA 22204–2245; Order Denying Export Privileges

On January 11, 2019 in the U.S. District Court for the Eastern District of Virginia, Tengiz Sydykov (''Sydykov'') was convicted of violating section 38 of the Arms Export Control Act (22 U.S.C. 2778) (''AECA''). Specifically, Sydykov was convicted for knowingly and willfully exporting and causing to be exported from the United States to

Grozny, Chechnya, Russia defense articles, that is: 7 Assembled firearms, 130 fully assembled lower recievers, 266 firearm slides, 158 firearm barrels, 996 firearm magazines, 10 stocks, 133 firearm frames and 453 functional firearms including springs and firing pins, which were designated as defense articles on the United States Munitions List, without having first obtained the required licenses or written approval from the United States Department of State. As a result of his conviction, the Court sentenced Sydykov to 36 months in prison, three years supervised release, and a $100 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act of 2018 (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, section 38 of the AECA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Sydykov's conviction for violating Section 38 of the AECA, and has provided notice and opportunity for Sydykov to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Sydykov.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Sydykov's export privileges under the Regulations for a period of 10 years from the date of Sydykov's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Sydykov had an interest at the time of his conviction.[3]

Accordingly, it is hereby *Ordered:*

First, from the date of this Order until January 11, 2029, Tengiz Sydykov, with a last known address of 2805 8th Street South, Arlington, VA 22204–2245, and when acting for or on his behalf, his successors, assigns, employees, agents, or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of ECRA (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Sydykov by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Sydykov may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions set forth in part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Sydykov and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 11 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2021–19723 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and, as amended, is codified at 50 U.S.C. 4801–4852. Sydykov's conviction post-dates ECRA's enactment on August 13, 2018.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] Pursuant to recent amendments to the Regulations, the Director of the Office of Export Enforcement is now the authorizing official for issuance of denial orders. (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry And Security

In the Matter of: Rrok Martin Camaj, Inmate Number: 57521–039, FCI Morgantown, Federal Correctional Institution, P.O. Box 1000, Morgantown, WV 26507; Order Denying Export Privileges

On February 28, 2020 in the U.S. District Court for the Eastern District of Michigan, Rrok Martin Camaj (''Camaj'') was convicted of violating Section 38 of the Arms Export Control Act, 22 U.S.C. 2778 (''AECA''). Specifically, Camaj was convicted of knowingly and willfully exporting and causing to be exported from the United States to Australia, that is pistol frames/receivers, magazines, pistols kits, and other firearm parts, which were defense articles on the United States Munitions List, without having first obtained from the United States Department of State, a license or other written approval for such export. Camaj was sentenced to 42 months in

prison, three-years of supervised released, a $100 special assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, section 38 of the AECA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Camaj's conviction for violating Section 38 of the AECA, and has provided notice and opportunity for Camaj to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Camaj.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Camaj's export privileges under the Regulations for a period of 10 years from the date of Camaj's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Camaj had an interest at the time of his conviction.[3]

Accordingly, it is hereby *Ordered:*

First, from the date of this Order until February 28, 2030, Rrok Martin Camaj, with a last known address of Inmate Number: 57521–039, FCI Morgantown, P.O. Box 1000, Morgantown, WV 26507, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Camaj by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Camaj may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Camaj and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until February 28, 2030.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2021–19720 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. Camaj's conviction post-dates ECRA's enactment on August 13, 2018.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is now the authorizing official for issuance of denial orders, pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Eli Ramirez-Rios, Honduras #88 COL, Modelo, Matamoros, Tamaulipas, MX; Order Denying Export Privileges

On February 26, 2020, in the U.S. District Court for the Southern District of Texas, Eli Ramirez-Rios (''Ramirez-Rios'') was convicted of violating 18 U.S.C. 554(a). Specifically, Ramirez-Rios was convicted of knowingly exporting and sending or attempting to export and send from the United States to Mexico, a firearm, namely, a Palmetto State Armory Build the Wall 10, AR–10 rifle with an obliterated serial number, in violation of 18 U.S.C. 554(a). As a result of his conviction, Ramirez-Rios was sentenced to 28 months in prison and a $100 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an

[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. Ramirez-Rios's conviction post-dates ECRA's enactment on August 13, 2018.

interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Ramirez-Rios's conviction for violating 18 U.S.C. 554, and has provided notice and opportunity for Ramirez-Rios to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Ramirez-Rios.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Ramirez-Rios's export privileges under the Regulations for a period of seven years from the date of Ramirez-Rios's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Ramirez-Rios had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until February 26, 2027, Eli Ramirez-Rios, with a last known address of Honduras #88 COL, Modelo, Matamoros, Tamaulipas, MX, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Ramirez-Rios by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Ramirez-Rios may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Ramirez-Rios and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until February 26, 2027.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2021–19716 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DT–P

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is now the authorizing official for issuance of denial orders, pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Katherine O'Neal, 4225 East Pikes Peak Ave., Unit #43, Colorado Springs, CO 80909; Order Denying Export Privileges

On August 30, 2018, in the U.S. District Court of Colorado, Katherine O'Neal (''O'Neal''), was convicted of violating 18 U.S.C. 554. Specifically, O'Neal was convicted fraudulently and knowingly exporting firearms from the United States to the Dominican Repubic. O'Neal was sentenced to 36 months in prison, three years of supervised release and a $100 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of O'Neal's conviction for violating 18 U.S.C. 554, and has provided notice and opportunity for O'Neal to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from O'Neal.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny O'Neal's export privileges under the Regulations for a period of seven years from the date of O'Neal's conviction. The Office of

[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. O'Neal's conviction post-dates ECRA's enactment on August 13, 2018.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

Exporter Services has also decided to revoke any BIS-issued licenses in which O'Neal had an interest at the time of her conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until August 30, 2025, Katherine O'Neal, with a last known address of 4225 East Pikes Peak Avenue, Unit #43, Colorado Springs, CO 80909, and when acting for or on her behalf, her successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to O'Neal by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, O'Neal may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to O'Neal and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until August 30, 2025.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2021–19721 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DT–P

[3] The Director, Office of Export Enforcement, is now the authorizing official for issuance of denial orders, pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Andy Lloyd Huebschmann, W1001 County Road HHH, Chilton, WI 53014; Order Denying Export Privileges

On December 13, 2019, in the U.S. District Court for the Eastern District of Wisconsin, Andy Lloyd Huebschmann (''Huebschmann''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C 2778) (''AECA''). Specifically, Huebschmann was convicted of knowingly and willfully exporting and causing to be exported from the United States to Australia defense articles, that is a rifle kit including a Model GA 9mm lower receiver, upper receiver, barrel, trigger control group, bolt carrier, and pistol grip, which were and are designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. As a result of his conviction, Huebschmann was sentenced to 24 months in prison, supervised release for one year, a criminal fine of $15,000 and a $100 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, Section 38 of the AECA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Huebschmann's conviction for violating Section 38 of the AECA, and has provided notice and opportunity for Huebschmann to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS received and granted Huebschmann's requests for additional time, until March 31, 2021 and again until July 16, 2021, to provide a written response. BIS did not receive a written submission from Huebschmann within the allotted time.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Huebschmann's export privileges under the Regulations for a period of 10 years from the date of Huebschmann's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Huebschmann had an interest at the time of his conviction.[3]

[1] ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852. Huebschmann's conviction post-dates ECRA's enactment on August 13, 2018.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is now the authorizing official for issuance of denial orders, pursuant to recent amendments to the

Continued

Accordingly, it is hereby *ordered:*

First, from the date of this Order until December 13, 2029, Andy Lloyd Huebschmann, with a last known address of W1001 County Road HHH, Chilton, WI 53014, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Huebschmann by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Huebschmann may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Huebschmann and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 13, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2021–19804 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DT–P

Regulations (85 *Fed. Reg.* 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–956, C–570–957]

Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From the People's Republic of China: Continuation of Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on seamless carbon and alloy steel standard, line and pressure pipe (SSLP) from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD and CVD orders.

DATES: Applicable September 14, 2021.

FOR FURTHER INFORMATION CONTACT: Theodore Pearson or Zachary Shaykin, Office I or IV, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2631 or (202) 482–2638, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 2010, Commerce published in the **Federal Register** a notice of the AD and CVD orders on SSLP from China.[1] On February 1, 2021, Commerce initiated,[2] and the ITC instituted,[3] the second sunset review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).

As a result of its reviews, Commerce determined, pursuant to sections 751(c)(1) and 752(c) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of dumping and countervailable subsidies. Commerce therefore notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should these *Orders* be revoked.[4] On September 8, 2021, the

[1] *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 69052 (November 10, 2010); *see also Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 69050 (November 10, 2010) (collectively, *Orders*).

[2] *See Initiation of Five-Year (Sunset) Review,* 86 FR 7709 (February 1, 2021).

[3] *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China; Institution of Five-Year Reviews,* 86 FR 7740 (February 1, 2021).

[4] *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Results of Second Expedited Sunset Review of Antidumping Duty Order,* 86 FR 30262 (June 7, 2021), and accompanying Issues and Decision Memorandum; *see also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Results of Expedited Second Sunset Review of the Countervailing Duty Order,* 86 FR 29753 (June 3, 2021), and accompanying Issues and Decision Memorandum.

ITC published its determination that revocation of the *Orders* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to sections 751(c) and 752(a) of the Act.[5]

Scope of the Orders

The merchandise covered by these *Orders* is certain seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (*e.g.,* hot-finished or cold-drawn), end finish (*e.g.,* plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (*e.g.,* bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or ''hollow profiles'' suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials (''ASTM'') or American Petroleum Institute (''API'') specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, ASTM A–1024, and the API 5L specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusion discussed below.

Specifically excluded from the scope of the *Orders* are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications; (2) all pipes meeting the chemical requirements of ASTM A–335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of the *Orders* are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.,* outside diameter and wall thickness of ASTM A–53, ASTM A–106 or API 5L specifications.

The merchandise covered by the *Orders* is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.[6]

Continuation of the Orders

As a result of the determination by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Orders.* U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of the *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year (sunset) reviews of these *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the return, destruction, or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: September 8, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–19752 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China (Inv. No. 701–TA–469 and 731–TA–1168 (Second Review)),* 86 FR 50374 (September 8, 2021); *see also Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China (Inv. No. 701–TA–469 and 731–TA–1168 (Second Review)),* USITC Pub. 5229 (September 1, 2021).

[6] *See Orders* at 75 FR 69051–69053.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–879, A–469–822]

Methionine From Japan and Spain: Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty orders on methionine from Japan and Spain.

DATES: Applicable September 14, 2021.

FOR FURTHER INFORMATION CONTACT: Robert Scully at (202) 482–0572 (Japan) or Elizabeth Bremer at (202) 482–4987 (Spain); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), on July 23, 2021, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of methionine from Japan and Spain.[1] On September 7, 2021, the ITC notified Commerce of its final determinations, pursuant to section 735(d) of the Act, that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of methionine from Japan and Spain, and its negative critical circumstances finding with

[1] *See Methionine from Japan: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 86 FR 38983 (July 23, 2021) and accompanying Issues and Decision Memorandum; *see also Methionine from Spain: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 86 FR 38985 (July 23, 2021), and accompanying Issues and Decision Memorandum (collectively, *Final Determinations*).

respect to dumped imports of methionine from Spain.[2]

Scope of the Orders

The products covered by these orders are methionine from Japan and Spain. For a complete description of the scope of these orders, *see* the appendix to this notice.

Antidumping Duty Orders

On September 7, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of imports of methionine from Japan and Spain.[3] Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing these antidumping duty orders. Because the ITC determined that imports of methionine from Japan and Spain are materially injuring a U.S. industry, unliquidated entries of such merchandise from Japan and Spain, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of methionine from Japan and Spain. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations, as further described below, antidumping duties will be assessed on unliquidated entries of methionine from Japan and Spain entered, or withdrawn from warehouse, for consumption, on or after March 4, 2021, the date of publication of the *Preliminary Determinations.*[4]

[2] *See* ITC Notification Letter, Investigation Nos. 731–TA–1535–1536 (Final) dated September 7, 2021 (ITC Notification Letter).

[3] *Id.*

[4] *See Methionine from Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances and Postponement of Final Determination and Extension of Provisional Measures,* 86 FR 12625 (March 4, 2021), and accompanying Preliminary Decision Memorandum; *see also Methionine from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 12614 (March 4, 2021) (*Spain Preliminary Determination*), and accompanying Preliminary Decision Memorandum (collectively, *Preliminary Determinations*).

Continuation of Suspension of Liquidation

Except as noted in the ''Provisional Measures'' section of this notice, in accordance with section 735(c)(1)(B) of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of methionine from Japan and Spain. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed below. The relevant all-others rate applies to all producers or exporters not specifically listed.

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of methionine from Spain, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated antidumping duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 4, 2020 (*i.e.,* 90 days prior to the date of the publication of the *Spain Preliminary Determination*), but before March 4, 2021 (*i.e.,* the date of publication of the *Spain Preliminary Determination*).

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of methionine from Japan and Spain, Commerce extended the four-month period to six months in each of these investigations. Commerce published the preliminary determinations in these investigations on March 4, 2021.[5]

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations,* ended on August 31, 2021. Therefore, in accordance with section 733(d) of the Act, Commerce intends to instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of methionine from Japan and Spain entered, or withdrawn from warehouse, for consumption after August 31, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

[5] *See Preliminary Determinations.*

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

JAPAN

Exporter/producer	Estimated weighted-average dumping margin (percent)
Sumitomo Chemical Company, Ltd	76.50
All Others	76.50

SPAIN

Exporter/producer	Estimated weighted-average dumping margin (percent)
Adisseo España S.A	37.53
All Others	37.53

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to methionine from Japan and Spain pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These antidumping duty orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: September 7, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Orders

The merchandise covered by these orders is methionine and dl-Hydroxy analogue of dl-methionine, also known as 2-Hydroxy 4-(Methylthio) Butanoic acid (HMTBa),

regardless of purity, particle size, grade, or physical form. Methionine has the chemical formula $C_5H_{11}NO_2S$, liquid HMTBa has the chemical formula $C_5H_{10}O_3S$, and dry HMTBa has the chemical formula $(C_5H_9O_3S)_2Ca$.

Subject merchandise also includes methionine processed in a third country including, but not limited to, refining, converting from liquid to dry or dry to liquid form, or any other processing that would not otherwise remove the merchandise from the scope of these orders if performed in the country of manufacture of the in-scope methionine or dl-Hydroxy analogue of dl-methionine.

The scope also includes methionine that is commingled (*i.e.,* mixed or combined) with methionine from sources not subject to these orders. Only the subject component of such commingled products is covered by the scope of these orders.

Excluded from these orders is United States Pharmacopoeia (USP) grade methionine. In order to qualify for this exclusion, USP grade methionine must meet or exceed all of the chemical, purity, performance, and labeling requirements of the United States Pharmacopeia and the National Formulary for USP grade methionine.

Methionine is currently classified under subheadings 2930.40.00.00 and 2930.90.46.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Methionine has the Chemical Abstracts Service (CAS) registry numbers 583–91–5, 4857–44–7, 59–51–8 and 922–50–9. While the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2021–19709 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–830]

Carbon and Certain Alloy Steel Wire Rod From Mexico: Amended Final Results of Antidumping Duty Administrative Review, and Final Determination of No Shipments; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod (wire rod) from Mexico to correct a ministerial error. The period of review (POR) is October 1, 2018, through September 30, 2019.

DATES: Applicable September 14, 2021.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Smith, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2181.

Background

On August 16, 2021, Commerce disclosed its calculations for the *Final Results* [1] to interested parties.[2] On August 23, 2021, we received a ministerial error allegation from Nucor Corporation (Nucor), a domestic interested party, regarding Commerce's home market program calculations.[3] No other party made an allegation of ministerial errors or submitted a reply to Nucor's ministerial error allegation.

Legal Framework

Section 751(h) of the Tariff Act of 1930, as amended (the Act), defines a ''ministerial error'' as including ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other unintentional error which the administering authority considers ministerial.'' With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce ''will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review . . . .''

Ministerial Error

Commerce agrees with Nucor that Commerce made an inadvertent, unintentional error in the *Final Results* within the meaning of section 751(h) of the Act and 19 CFR 351.224(f) with respect to treatment of reported late payment fees in the margin calculation for the sole mandatory respondent, Deacero S.A.P.I de C.V. (Deacero). Accordingly, Commerce determines that, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), it made a ministerial error in the *Final Results.*

For a complete discussion of the ministerial error allegation, as well as Commerce's analysis, *see* the accompanying Ministerial Error Memorandum.[4] The Ministerial Error 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.*

Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of a ministerial error in the calculation of the weighted-average dumping margin assigned to Deacero in the *Final Results,* which changes from 9.82 percent to 9.84 percent. Furthermore, we are revising the review-specific, weighted-average dumping margin applicable to the companies not selected for individual examination in this administrative review, Talleres y Aceros S.A. de C.V. (Talleres y Aceros), and Ternium Mexico S.A. de C.V. (Ternium), which is based entirely on Deacero's weighted-average dumping margin.[5]

Amended Final Results

As a result of correcting the ministerial error, Commerce determines that the following weighted-average dumping margins exist for the period October 1, 2018, through September 30, 2019:

Producers/exporters	Weighted-average dumping margins (percent)
Deacero S.A.P.I de C.V	9.84
Talleres y Aceros S.A. de C.V ...	9.84
Ternium Mexico S.A. de C.V	9.84

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after publication of these amended final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review.

For Deacero, Commerce has calculated importer-specific antidumping duty assessment rates by

[1] *See Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Results of Antidumping Duty Administrative Review, and Final Determination of No Shipments; 2018–2019,* 86 FR 46179 (August 18, 2021) (*Final Results*).

[2] *See* Memorandum, ''Final Calculation Memorandum for Deacero S.A.P.I. de C.V. and Deacero USA, Inc.,'' dated August 11, 2021.

[3] *See* Nucor's Letter, ''Carbon and Certain Alloy Steel Wire Rod from Mexico: Ministerial Error Comments,'' dated August 23, 2021.

[4] *See* Memorandum, ''Carbon and Certain Alloy Steel Wire Rod from Mexico: Allegation of a Ministerial Error in the Antidumping Administrative Review; 2018–2019 Final Results,'' dated concurrently with this memorandum (Ministerial Error Memorandum).

[5] *See Final Results,* 86 FR at 46180.

aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales in accordance with 19 CFR 351.212(b)(1). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis.* For entries of subject merchandise during the POR produced by Deacero for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For the companies not selected for individual examination, we will instruct CBP to apply an assessment rate to all entries produced and/or exported by those companies equal to the dumping margin indicated above. Commerce intends to issue assessment instructions to CBP 41 days after the date of publication of these amended final results of review.[6]

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after August 18, 2021, the publication date of the *Final Results* of this administrative review, as provided by section 751(a)(2) of the Act: (1) For producers or exporters covered in this administrative review, the cash deposit rates will be the rates established in the final results of this administrative review; (2) for producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 20.11 percent, the all-others rate established in the investigation.[7] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: September 7, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–19710 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* 19 CFR 356.8(a).

[7] *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 67 FR 65945, 65947 (October 29, 2002).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Analysis of Exoskeleton-Use for Enhancing Human Performance Data Collection

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 15, 2021.

ADDRESSES: Interested persons are invited to submit written comments to Maureen O'Reilly, Management Analyst, NIST by email to *PRAcomments@doc.gov*. Please reference OMB Control Number 0693–0083 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Ann Marie Virts, Project Leader, NIST, 100 Bureau Drive, Gaithersburg, MD 20899, *Ann.virts@nist.gov,* 301–975–5068.

SUPPLEMENTARY INFORMATION:

I. Abstract

Exoskeletons—sometimes called wearable robots—are a very rapidly expanding domain with a range of applications and a broad diversity of designs. NIST's Engineering Laboratory will be developing methods to evaluate performance of exoskeletons in two key areas (1) The fit and motion of the exoskeleton device with respect to the users' body and (2) The impact that using an exoskeleton has on the performance of users executing tasks that are representative of activities in industrial settings and emergency response applications. The results of these experiments will inform future test method development at NIST, other organizations, and under the purview of the American Society for Testing Materials (ASTM) Committee F48 on Exoskeletons and Exosuits.

For the first research topic, NIST will be measuring the difference in performance of a person wearing an exoskeleton versus the person's baseline without the exoskeleton while positioning loads and tools. The NIST Position and Load Test Apparatus for Exoskelons (PoLoTAE), which presents abstractions of industrial task challenges, will be used in this research. NIST researchers will also develop standard test methods to represent real world applications for emergency responders such as mobility tasks;

climbing over, around and thru obstacles.

For the second research topic, NIST will evaluate a method for measuring the alignment of an exoskeleton to human joint (knee) and any relative movement between the exoskeleton and user. Measurement methods prototyped by NIST for evaluating exoskeleton on mannequin position and motion will be applied to human subjects to verify the usefulness of optical tracking system and designed artifacts worn by users as measurement methods.

Participants will be chosen from volunteers within NIST and adult NIST visitors to participate in the study. Gender and size diversity will be sought in the population of participants. No personally identifiable information (PII) will be recorded unless subject consent for PII disclosure is received. NIST intends to publish information on the analysis and results.

II. Method of Collection

Participants will give informed consent prior to participating in the research. Information may be collected via a paper background questionnaire which may include disclosure of health information which may be relevant for safety and research reasons. Data will be collected using a combination of heart rate monitor, video and still cameras to collect time and subject activity to correlate heart rate with activity and an optical tracking system which detects markers worn by the subject. Participants will be asked to complete a paper survey once data is collected for the research.

III. Data

OMB Control Number: 0693–0083.

Form Number(s): None.

Type of Review: Regular submission, revision and extension of a current information collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 180.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 30 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority:

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–19806 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB416]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of web conference meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet from September 30, 2021, through October 15, 2021.

DATES: The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Thursday, September 30, 2021, through Friday, October 1, 2021, and on Monday, October 4, 2021, through Wednesday, October 6, 2021. The Council's Advisory Panel (AP) will begin at 8 a.m. on Monday, October 4, 2021, through Friday, October 8, 2021. The Council will meet on Wednesday, October 6, 2021, and on Sunday, October 10, 2021, through Friday, October 15, 2021. All times listed are Alaska Time.

ADDRESSES: The meetings will be by web conference. Join online through the links at *https://www.npfmc.org/upcoming-council-meetings.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via web conference are given under Connection Information below.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809; email: *diana.evans@noaa.gov.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, September 30, 2021, Through Friday, October 1, 2021; Monday, October 4, 2021, Through Wednesday, October 6, 2021

The SSC agenda will include the following issues:

1. October preview of Ecosystem Status Report
2. Alaska Fishery Science Center (AFSC) Report on climate regional action plans and the NOAA climate and Fisheries Initiative
3. Observer annual deployment plan for 2022
4. Bering Sea Aleutian Island (BSAI) Crab—Stock assessment and fishery evaluation (SAFE), acceptable biological catch (ABC) and overfishing limit (OFL) for four stocks; plan team report
5. BSAI and Gulf of Alaska (GOA) groundfish—proposed specifications, plan team reports, risk tables
6. Workplan for the halibut Catch Share Plan for Areas 2C/3A allocation review
7. Alaska Climate Integrated Modeling (ACLIM) 2.0 report and GOA CLIM (Climate Integrated Modeling) update

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2353* prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard

2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

Monday, October 4, 2021, Through Friday, October 8, 2021

The Advisory Panel agenda will include the following issues:

1. BSAI Crab—SAFE, ABC/OFL for four stocks; plan team report
2. IFQ omnibus amendments—initial review, IFQ committee report
3. RQE fee collection program—initial review
4. Halibut Catch Share Plan for Areas 2C/3A allocation review—review workplan
5. BSAI Pacific cod trawl Catcher Vessel (CV) Limited Access Privilege Program (LAPP)—Final Action
6. Observer annual deployment plan for 2022; Partial Coverage Fishery Monitoring Advisory Committee (PCFMAC) report
7. BSAI and GOA groundfish—proposed specifications, plan team reports, risk tables
8. ACLIM 2.0 report and GOA CLIM update
9. Staff Tasking

Wednesday, October 6, 2021

The Council will meet in executive session to discuss administrative matters.

Wednesday, October 6, 2021; Sunday, October 10, 2021, Through Friday, October 15, 2021

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

1. All B Reports (Executive Director, NMFS Management, NOAA GC, AFSC, ADF&G, USCG, USFWS, U.S. Navy Report on Northern Edge 2021)
2. BSAI Crab—SAFE, ABC/OFL for four stocks; plan team report
3. IFQ omnibus amendments—initial review, IFQ committee report
4. RQE fee collection program—initial review
5. AP report in full
6. Halibut Catch Share Plan for Areas 2C/3A allocation review—review workplan
7. BSAI Pacific cod trawl CV LAPP—Final Action
8. SSC report in full
9. Observer Annual Deployment plan; PCFMAC report
10. BSAI and GOA groundfish—proposed specifications; plan team reports; risk tables
11. ACLIM 2.0 report and GOA CLIM update
12. Staff Tasking

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by telephone only. Connection information will be posted online at: *https://www.npfmc.org/upcoming-council-meetings.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at *https://www.npfmc.org/upcoming-council-meetings.* The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from September 17, 2021, to September 29, 2021, and closes at 5 p.m. Alaska Time on September 29, 2021.

Although other non-emergency issues not on the agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

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

Dated: September 9, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–19792 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NOAA Satellite Customer Questionnaire

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on June 9, 2021 (86 FR 30595) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: NOAA Satellite Customer Questionnaire.

OMB Control Number: 0648–0227.

Form Number(s): None.

Type of Request: Regular submission [extension of a current information collection].

Number of Respondents: 30.

Average Hours per Response: 6 minutes per response.

Total Annual Burden Hours: 3.

Needs and Uses: This request is for extension of a current information collection. The National Oceanic and Atmospheric Administration (NOAA) operates a minimum of four meteorological satellite imagery transmission systems, two from geostationary operational environmental (GOES) satellites and two from polar-orbiting television infrared operational (TIROS) satellites. In addition, legacy backup and standby polar-orbiting satellites continue to be operated as their health permits. The data transmitted are available worldwide, and any user can establish a ground receiving station for reception of the data without the prior consent, notification, or other approval from NOAA. With such an open access policy, it is currently not possible to have a comprehensive understanding of the range and number of the data users and application of the data received and/or used. The purpose of collecting the information contained in the user registration form is to satisfy the following objectives: (1) To comply with international agreements such as the Department of Commerce (DOC)/NOAA's efforts with the World Meteorological Organization (WMO), so that NOAA can provide environmental satellite data and processed satellite data products to the public domain, and (2) To improve Government efficiencies of data dissemination using cost-saving technologies to minimize the expenditure of personnel and financial resources.

The collection of information from a respondent is initiated when an individual contacts National Environmental Satellite, Data, and Information Service (NESDIS) via letter,

telephone, fax or email, or when they visit a web page. If the nature of the contact indicates the individual may operate a satellite receiving station for the acquisition of NOAA satellite data or may use NOAA satellite data or services, the individual is requested to complete an on-line electronic questionnaire, which is found on a NOAA internet site. The questionnaire is completed at the respondent's discretion. The information received is used by NOAA for short-term operations and long-term planning. Collection of this data assists in complying with the terms of the coordination with the WMO, MOU with DOC, and NOAA on areas of common interest and other international agreements.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Frequency: Once; updates as needed.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB. 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 and entering either the title of the collection or the OMB Control Number 0648–0227.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–19811 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Documentation of Fish Harvest

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on June 8, 2021, (86 FR 30448) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Documentation of Fish Harvest.

OMB Control Number: 0648–0365.

Form Number(s): None.

Type of Request: Regular submission—extension of a current information collection.

Estimated Number of Respondents: 379.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 63.

Needs and Uses: The NMFS Southeast Regional Office proposes to extend the information collection currently approved under OMB Control Number 0648–0365.

The NMFS Southeast Regional Office manages commercial fishing in Federal waters of the South Atlantic under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Federally permitted seafood dealers who process or sell snapper-grouper species during seasonal fishery closures in the South Atlantic for those applicable species must maintain documentation, as specified in 50 CFR part 300 subpart K and 50 CFR 622.192(i), that such fish were harvested from areas other than state or Federal waters in the South Atlantic. The applicable snapper-grouper species are greater amberjack, gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, yellowfin grouper, graysby, and coney. The documentation includes information on the vessel that harvested the fish, and where and when the fish were offloaded. NMFS requires the information for the enforcement of fishery regulations at 50 CFR 622, subpart I.

Affected Public: Business or other for-profit organizations.

Frequency: As needed.

Respondent's Obligation: Mandatory.

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

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Submit written comments and recommendations for the proposed information collection 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 and entering either the title of the collection or the OMB Control Number 0648–0365.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–19807 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Evaluation of Public Visitors' Experience at the National Marine Sanctuaries Visitor Centers and Exhibits

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 19 April 2021 (86 FR 20367) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Evaluation of Public Visitors' Experience at the National Marine Sanctuaries Visitor Centers and Exhibits.

OMB Control Number: 0648–0582.

Form Number(s): None.

Type of Request: Revision and extension of a current information collection.

Number of Respondents: 8,265.

Average Hours per Response: 8 minutes.

Total Annual Burden Hours: 1,102.

Needs and Uses: The Office of National Marine Sanctuaries (ONMS) is requesting revision and extension of a currently approved information collection. This information collection is revised to include the collection instruments approved under OMB Control Number 0648–0777, after which that control number will be discontinued. The title of this collection is being changed to encompass both collections.

The evaluation of visitor demographics, experiences, and opinions about visitor centers and exhibits is needed to support the conservation, education, and management goals of ONMS to strengthen and improve the stewardship, sustainable use, and protection of natural, cultural, and historical resources. Under the jurisdiction of ONMS and to satisfy legal mandates, the National Oceanic and Atmospheric Administration (NOAA) is authorized to conduct evaluations, such as this information collection, under the American Innovation and Competitiveness Act (section 314(c)) to ensure education programs have measurable objectives and milestones as well as clear, documented metrics for evaluating its programs.

For example, the Mokupāpapa Discovery Center (Center) is an outreach arm of Papahānaumokuākea Marine National Monument that reaches more than 75,000 people each year in Hilo, Hawai'i. The Center was created almost two decades ago to help raise support for the creation of a national marine sanctuary in the Northwestern Hawaiian Islands. Since that time, the area has been proclaimed a marine national monument and the main messages we are trying to share with the public have changed to better reflect the new monument status, UNESCO World Heritage status, and the joint management by the three co-trustees of the monument.

ONMS recently updated its Strategic Plan and has identified a lack of information on the effectiveness of its education, outreach, and communications initiatives as they relate to sanctuary/monument visitor centers, exhibits (permanent or traveling/temporary), kiosks, and educational programming conducted by its visitor centers and partner facilities.

We therefore are seeking to determine if people visiting ONMS' visitor centers and exhibits are receiving our new messages by conducting an optional exit survey. ONMS is requesting to conduct a survey to evaluate patron acuity to determine successful concept attainment. Conducting thorough evaluations will aid in vital decisions regarding exhibit renovation, new exhibits, interpretation programs, and educational content.

Affected Public: Individuals or households.

Frequency: One time every three years.

Respondent's Obligation: Voluntary.

Legal Authority: National Marine Sanctuary Act.

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 and entering either the title of the collection or the OMB Control Number 0648–0582.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–19809 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB414]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Groundfish Subcommittee of the Scientific and Statistical Committee (SSC) will hold an online meeting to review requested analyses exploring scale uncertainty in the new spiny dogfish stock assessment and rebuilding analyses for copper rockfish and quillback rockfish in California.

DATES: The online meeting will be held Wednesday, September 29, 2021, from 1 p.m. to 5 p.m., Pacific Daylight Time (PDT) and Thursday, September 30, 2021, from 8:30 a.m. to 12:30 p.m., PDT.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: John DeVore, Staff Officer, Pacific Council; telephone: (503) 820–2413.

SUPPLEMENTARY INFORMATION: The SSC's Groundfish Subcommittee will review further analyses for a new assessment of spiny dogfish as requested by the Pacific Council at their June 2021 meeting. The SSC Groundfish Subcommittee will also review new rebuilding analyses for copper rockfish in California south of Pt. Conception and quillback rockfish in California. These actions were recommended by the SSC Groundfish Subcommittee at their August 17, 2021 review of these assessments and follows the procedures outlined in the Pacific Council's Terms of Reference for the Groundfish and Coastal Pelagic Species Stock Assessment Review Process for 2021–22. The Groundfish Subcommittee will prepare their recommendations for SSC and Pacific Council consideration at their November 2021 meetings.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: September 9, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–19791 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Permits for Incidental Taking of Endangered or Threatened Species

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 25, 2021 (86 FR 28061) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Permits for Incidental Taking of Endangered or Threatened Species.

OMB Control Number: 0648–0230.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 37.

Average Hours per Response: 80 hours for a permit application (including Habitat Conservation Plans); 40 minutes for transfer of an incidental take permit; 8 hours for a permit report, 30 minutes for a Certificate of Inclusion; and 10 hours for a watershed plan.

Total Annual Burden Hours: 408.

Needs and Uses: All of the required information collected in the application is used to evaluate the impacts of a proposed activity on endangered species; for example, to make the determinations required by the ESA prior to issuing an incidental take permit, and to establish appropriate permit conditions. The analysis involved in making these determinations requires detailed information on the activity, the ESA species and how the activity may affect the species directly or indirectly through alterations of the habitat.

The reports required by the incidental take permits are used by NMFS to monitor the taking, to assess the impacts to the species and its habitat, and to monitor compliance with the terms and conditions of the permit. This information is necessary to ensure that the taking is not appreciably reducing the likelihood of the survival and recovery of the species and for determining whether the terms and conditions of the permit are being complied with, as required by sections 10(a)(2)(B) and (C) of the ESA. The regulations at § 222.307(d)(1) state that permits must contain ''Reporting requirements or rights of inspection for determining whether the terms and conditions are being complied with''. The requirements for reports therefore, vary from permit to permit, depending on the permit conditions.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government.

Frequency: An applicant needs to submit one final application and reporting occurs annually, but may vary from permit to permit, depending on the permit conditions.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*).

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 and entering either the title of the collection or the OMB Control Number 0648–0230.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–19810 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Third-Party Submissions and Protests

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 30, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: Third-Party Submissions and Protests.

OMB Control Number: 0651–0062.

Form Number: PTO/SB/429 (Third-Party Submission Under 37 CFR 1.290).

Type of Review: Extension and revision of a currently approved information collection.

Number of Respondents: 880 respondents per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 10 hours to gather the necessary information, create the documents, and submit the completed items to the USPTO.

Estimated Total Annual Respondent Burden Hours: 8,800 hours.

Estimated Total Annual Non-Hour Cost Burden: $80,613.

Needs and Uses: The USPTO is required by 35 U.S.C. 131 *et seq.* to examine an application for patent and, when appropriate, issue a patent. The provisions of 35 U.S.C. 122(c), 122(e), 131, and 151, as well as 37 CFR 1.290 and 1.291, limit the ability of a third-party to have information entered and considered in, or to protest, a patent application pending before the USPTO. 37 CFR 1.290 provides a mechanism for third parties to submit to the USPTO, for consideration and inclusion in the record of a patent application, any patents, published patent applications, or other printed publications of potential relevance to the examination of the application. A preissuance submission under 37 CFR 1.290 may be made in any non-provisional utility, design, and plant application, as well as in any continuing application. A preissuance submission under 37 CFR 1.290 must include a concise description of the asserted relevance of each document submitted, and must be submitted within a certain statutorily specified period. 37 CFR 1.291 permits a member of the public to file a protest

against a pending application. Protests pursuant to 37 CFR 1.291 are supported by a separated statutory provision from third-party submissions under 37 CFR 1.290.

Affected Public: Private sector; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this 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 and entering either the title of the information collection or the OMB Control Number 0651–0062.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0062 information request'' in the subject line of the message.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2021–19798 Filed 9–13–21; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Public Meeting

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of public meeting.

SUMMARY: The Committee is announcing a public meeting to be held October 7, 2021.

DATES: Registration is due no later than: October 5, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Angela Phifer, Telephone: (703) 798–5873 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to register to attend a public meeting.

Summary: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to register to attend a public meeting.

This notice provides information to access and participate in the October 7, 2021 regular quarterly public meeting of the Committee for Purchase From People Who Are Blind or Severely Disabled, operating as the U.S. AbilityOne Commission (Commission), via webinar. The Commission oversees the AbilityOne Program, which provides employment opportunities through federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. Chapter 85) authorizes the contracts and established 15 Presidential appointees, including private citizens conversant with the employment interests and concerns of people who are blind or significantly disabled. Presidential appointees also include representatives of federal agencies. The public meetings include updates from the Commission and staff.

Date and Time: October 7, 2021, from 1:00 p.m. to 4:00 p.m., EDT.

Place: This meeting will occur via Zoom webinar.

Commission Statement: As the Commission implements new strategies and priorities, we are committed to public meetings that provide substantive information. These meetings also provide an opportunity for input from the disability community and other stakeholders.

For the meeting on October 7, 2021, the Commission invites comments or suggestions regarding:

1. Best practices by nonprofit agencies to modernize AbilityOne employment.
2. Recommendations for pilot tests to increase integrated employment in the AbilityOne Program—please address how such tests should be designed and how they fit within the Commission's statutory authority.

Attendees who submit comments in advance may be invited to elaborate or answer questions during the meeting, time permitting.

Registration: Attendees must register not later than 11:59 p.m. EDT on Tuesday, October 5, 2021. The registration link will be accessible on the Commission's home page, *www.abilityone.gov,* not later than Wednesday, September 15, 2021. During registration, you may choose to submit comments or a statement. Comments submitted via the registration link will be shared with the Commission members prior to the meeting. Comments posted in the chat box during the meeting will be shared with the Commission members after the meeting.

Personal Information: Do not include any personally identifiable information that you do not want publicly disclosed—*e.g.,* address, phone number or other contact information, or confidential business information.

The Commission is not subject to the requirements of 5 U.S.C. 552b; however, the Commission published this notice to encourage the broadest possible participation in its April 8, 2021 public meeting.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2021–19762 Filed 9–13–21; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Reopening the Fiscal Year (FY) 2021 Competition for Certain Eligible Applicants; National Comprehensive Center on Improving Literacy for Students With Disabilities

AGENCY: Offices of Elementary and Secondary Education and Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: On July 13, 2021, the Department of Education (Department) published in the **Federal Register** a notice inviting applications (NIA) for the FY 2021 National Comprehensive Center on Improving Literacy for Students With Disabilities competition, Assistance Listing Number 84.283D. This notice reopens this competition to allow more time for the preparation and submission of applications by eligible applicants affected by the severe weather located in a federally declared disaster area as determined by the Federal Emergency Management Agency (FEMA), which has been designated for Individual Assistance or Public Assistance under Presidential major disaster declarations DR–4611–LA and EM–3569–MS (''affected applicants'').

DATES: *Deadline for Transmittal of Applications for Affected Applicants:* September 13, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Tina Diamond, U.S. Department of Education, 400 Maryland Avenue SW, Room 5142, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6723. Email: *Christina.Diamond@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: On July 13, 2021, we published in the **Federal Register** (86 FR 36722) the NIA for the National Comprehensive Center on Improving Literacy for Students With Disabilities. Under the NIA, applications were due on September 1, 2021. We are reopening this competition for affected applicants until September 13, 2021, to allow those applicants more time to prepare and submit their applications.

Eligibility: The reopening of this competition applies to eligible applicants under the National Comprehensive Center on Improving Literacy for Students With Disabilities competition that are affected applicants. An eligible applicant for this competition is defined in the NIA. The federally declared disaster areas under these declarations are the jurisdictions identified by FEMA under declarations DR–4611–LA and EM–3569–MS in which assistance to individuals or public assistance has been authorized. To determine if you are an affected applicant, see the Emergency Declarations available at: *www.fema.gov/disaster/4611, www.fema.gov/disaster/4611/designated-areas, www.fema.gov/disaster/3569,* and *www.fema.gov/disaster/3569/designated-areas.*

Affected applicants that have already timely submitted applications under the FY 2021 National Comprehensive Center on Improving Literacy for Students With Disabilities competition may submit a new application, but they are not required to do so. If a new application is not submitted, the Department will use the application that was submitted by the original deadline. If a new application is submitted, the Department will consider the application that is last submitted and timely received. Applications that did not meet the original deadline must be resubmitted to be considered for review. An affected applicant submitting an application as part of the reopened competition must provide supporting information (*e.g.,* by including the applicant's organization address) in its application that it is located in a jurisdiction that is part of one of the applicable federally declared disaster areas and must provide appropriate supporting documentation, if requested.

We are not reopening the application period for all applicants. Thus, applications from applicants that are not affected applicants may not be submitted as part of this reopened period for submission of applications.

Note: All information in the NIA remains the same, except for the deadline date for affected applicants.

Program Authority: Section 203 of the Educational Technical Assistance Act of 2002 (20 U.S.C. 9602) and section 2244 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6674).

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.

Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2021–19876 Filed 9–10–21; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Reopening the Fiscal Year (FY) 2022 Competition for Certain Eligible Applicants; Education Research and Special Education Research Grant Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: On June 10, 2021, we published in the **Federal Register** a notice inviting applications (NIA) for the FY 2022 Education Research and Special Education Research Grant Programs, Assistance Listing Numbers (ALNs) 84.305A, 84.305B, 84.305D, 84.305R, 84.305S, and 84.324X. The NIA established a deadline date of September 9, 2021, for the transmittal of applications for the Education Research, Research Training Programs in the Education Sciences, Research Grants Focused on Systematic Replication, and Research to Accelerate Pandemic Recovery in Special Education competitions, ALNs 84.305A, 84.305B, 84.305R, and 84.324X–2 (the ''affected competitions''). This notice reopens the affected competitions to allow more time for the preparation and submission of applications by eligible applicants that are affected by recent severe weather and located in a federally declared major disaster area designated for Individual Assistance or Public Assistance under Presidential major disaster declarations DR–4609–TN, DR–4610–CA, DR–4611–LA, DR–4614–NJ, and DR–4615–NY (''affected applicants'').

DATES: Deadline for Transmittal of Applications for Affected Applicants: September 30, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019

(84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: For the contact person associated with a particular research competition, please refer to the chart in the NIA, available at *www.govinfo.gov/app/details/FR-2021-06-10/2021-12173,* as well as in the relevant Request for Application (available at *https://ies.ed.gov/funding/*) and application package.

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 June 10, 2021, we published in the **Federal Register** (86 FR 30921) the NIA for the Education Research and Special Education Research Programs. We are reopening the affected competitions until September 30, 2021, to allow affected applicants more time to prepare and submit their applications.

Eligibility

The reopening applies to eligible applicants under the affected competitions—ALNs 84.305A, 84.305B, 84.305R, and 84.324X–2—that are affected applicants. Eligibility requirements for applicants for the affected competitions are specified in the NIA. The federally declared major disaster areas under these declarations are the jurisdictions identified by the Federal Emergency Management Agency under declarations DR–4609–TN, DR–4610–CA, DR–4611–LA, DR–4614–NJ, and DR–4615–NY in which assistance to individuals or public assistance has been authorized. To determine if you are an affected applicant, see the Emergency Declarations available at: *www.fema.gov/disaster/4609, www.fema.gov/disaster/4610, www.fema.gov/disaster/4611, www.fema.gov/disaster/4614,* and *www.fema.gov/disaster/4615.*

To qualify as an affected applicant, the applicant must either have a mailing address that is located in a jurisdiction that is part of one of the applicable federally declared disaster areas or provide a certification in its application that it or its planned subawardees and contractors identified in the application are located in one of these areas. Affected applicants must also provide appropriate supporting documentation, if requested.

We are not reopening the application period for all applicants. Therefore, we will reject any application submitted as part of this reopened application submission period from applicants that are not affected applicants.

Note: All information in the NIA for this competition remains the same, except for the deadline date for the transmittal of applications for affected applicants.

Program Authority: 20 U.S.C. 9501 *et seq.* and the American Rescue Plan Act of 2021 (Pub. L. 117–2) Sec. 2010.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document, the Request for Application, and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schneider,

Director, Institute of Education Sciences.

[FR Doc. 2021–19706 Filed 9–13–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB).

DATES: Comments regarding this proposed information collection must be received on or before November 15, 2021. If you anticipate any difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to John Harris, Office of Policy, Contract and Financial Assistance Policy Division, Office of Acquisition Management, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, by email to *John.Harris@hq.doe.gov;* Mr. Harris may be contacted at (202) 287–1471.

FOR FURTHER INFORMATION CONTACT: John Harris, (202) 287–1471, *John.Harris@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* 1910–4100;

(2) *Information Collection Request Titled:* Procurement Requirements;

(3) *Type of Review:* Renewal;

(4) *Purpose:* The Code of Federal Regulations (CFR); Title 48 Federal Acquisition Regulations System; Chapter 9 Department of Energy (DOE); Subchapter H Clauses and Forms; Part 952—Solicitation Provisions and Contract Clauses; and Subchapter I Agency Supplementary Regulations; Part 970 DOE Management and Operating Contracts; Section 970.52 Solicitation Provisions and Contract Clauses for Management and Operating Contracts; requires DOE to collect certain types of information from those seeking to do business with the Department or those awarded contracts by the Department. This package contains information collections necessary for the solicitation, award, administration, and closeout of procurement contracts.

(5) *Annual Estimated Number of Respondents:* 7,387;

(6) *Annual Estimated Number of Total Responses:* 7,387;

(7) *Annual Estimated Number of Burden Hours:* 666,082;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $58,115,655.

Statutory Authority: 42 U.S.C. 2201.

Signing Authority

This document of the Department of Energy was signed on August 26, 2021, by John R. Bashista, Director, Office of Acquisition Management and Senior Procurement Executive, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 8, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–19731 Filed 9–13–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC21–26–000]

Commission Information Collection Activities (Ferc–725b) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725B, (Mandatory Reliability Standards, Critical Infrastructure Protection (CIP), which will be submitted to the Office of Management and Budget (OMB) for review.

DATES: Comments on the collection of information are due October 14, 2021.

ADDRESSES: Send written comments on FERC–725B to OMB through *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902–0248) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC21–26–000) by one of the following methods:

Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725B (Mandatory Reliability Standards, Critical Infrastructure Protection (CIP)).

OMB Control No.: 1902–0248.

Type of Request: Three-year extension of the FERC–725B information collection requirements with no changes to the reporting requirements.

Abstract: On August 8, 2005, Congress enacted the Energy Policy Act of 2005.[1] The Energy Policy Act of 2005 added a new section 215 to the FPA,[2] which requires a Commission-certified Electric Reliability Organization to develop mandatory and enforceable Reliability Standards,[3] including requirements for cybersecurity protection, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the Electric Reliability Organization subject to Commission oversight, or the Commission can independently enforce Reliability Standards.

On February 3, 2006, the Commission issued Order No. 672,[4] implementing FPA section 215. The Commission subsequently certified NERC as the Electric Reliability Organization. The Reliability Standards developed by NERC become mandatory and enforceable after Commission approval and apply to users, owners, and operators of the Bulk-Power System, as set forth in each Reliability Standard.[5] The CIP Reliability Standards require entities to comply with specific requirements to safeguard critical cyber assets. These standards are results-based and do not specify a technology or method to achieve compliance, instead leaving it up to the entity to decide how best to comply.

On January 18, 2008, the Commission issued Order No. 706,[6] approving the initial eight CIP Reliability Standards, CIP version 1 Standards, submitted by

[1] Energy Policy Act of 2005, Public Law 109–58, sec. 1261 *et seq.,* 119 Stat. 594 (2005).

[2] 16 U.S.C. 824o.

[3] FPA section 215 defines Reliability Standard as a requirement, approved by the Commission, to provide for reliable operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the Bulk-Power System. However, the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity. *Id.* at 824o(a)(3).

[4] *Rules Concerning Certification of the Elec. Reliability Org.; and Procedures for the Establishment, Approval, and Enf't of Elec. Reliability Standards,* Order No. 672, 71 FR 8661 (Feb. 17, 2006), 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 71 FR 19814 (Apr. 28, 2006), 114 FERC ¶ 61,328 (2006).

[5] NERC uses the term ''registered entity'' to identify users, owners, and operators of the Bulk-Power System responsible for performing specified reliability functions with respect to NERC Reliability Standards. *See, e.g., Version 4 Critical Infrastructure Protection Reliability Standards,* Order No. 761, 77 FR 24594 (Apr. 25, 2012), 139 FERC ¶ 61,058, at P 46, *order denying clarification and reh'g,* 140 FERC ¶ 61,109 (2012). Within the NERC Reliability Standards are various subsets of entities responsible for performing various specified reliability functions. We collectively refer to these as ''entities.''

[6] Order No. 706, 122 FERC ¶ 61,040 at P 1.

NERC. Subsequently, the Commission has approved multiple versions of the CIP Reliability Standards submitted by NERC, partly to address the evolving nature of cyber-related threats to the Bulk-Power System. On November 22, 2013, the Commission issued Order No. 791,[7] approving CIP version 5 Standards, the last major revision to the CIP Reliability Standards. The CIP version 5 Standards implement a tiered approach to categorize assets, identifying them as high, medium, or low risk to the operation of the Bulk Electric System (BES)[8] if compromised. High impact systems include large control centers. Medium impact systems include smaller control centers, ultra-high voltage transmission, and large substations and generating facilities. The remainder of the BES Cyber Systems[9] are categorized as low impact systems. Most requirements in the CIP Reliability Standards apply to high and medium impact systems; however, a technical controls requirement in Reliability standard CIP–003, described below, applies only to low impact systems. Since 2013, the Commission has approved new and modified CIP Reliability Standards that address specific issues such as supply chain risk management, cyber incident reporting, communications between control centers, and the physical security of critical transmission facilities.[10]

The CIP Reliability Standards currently consist of 13 standards specifying a set of requirements that entities must follow to ensure the cyber and physical security of the Bulk-Power System.

- *CIP–002–5.1a Bulk Electric System Cyber System Categorization:* Requires entities to identify and categorize BES Cyber Assets for the application of cyber security requirements commensurate with the adverse impact that loss, compromise, or misuse of those BES Cyber Systems could have on the reliable operation of the BES.
- *CIP–003–8 Security Management Controls:* Requires entities to specify consistent and sustainable security management controls that establish responsibility and accountability to protect BES Cyber Systems against compromise that could lead to mis-operation or instability in the BES.
- *CIP–004–6 Personnel and Training:* Requires entities to minimize the risk against compromise that could lead to mis-operation or instability in the BES from individuals accessing BES Cyber Systems by requiring an appropriate level of personnel risk assessment, training, and security awareness in support of protecting BES Cyber Systems.
- *CIP–005–6 Electronic Security Perimeter(s):* Requires entities to manage electronic access to BES Cyber Systems by specifying a controlled Electronic Security Perimeter in support of protecting BES Cyber Systems against compromise that could lead to mis-operation or instability in the BES.
- *CIP–006–6 Physical Security of Bulk Electric System Cyber Systems:* Requires entities to manage physical access to BES Cyber Systems by specifying a physical security plan in support of protecting BES Cyber Systems against compromise that could lead to mis-operation or instability in the BES.
- *CIP–007–6 System Security Management:* Requires entities to manage system security by specifying select technical, operational, and procedural requirements in support of protecting BES Cyber Systems against compromise that could lead to mis-operation or instability in the BES.
- *CIP–008–6 Incident Reporting and Response Planning:* Requires entities to mitigate the risk to the reliable operation of the BES as the result of a cybersecurity incident by specifying incident response requirements.
- *CIP–009–6 Recovery Plans for Bulk Electric System Cyber Systems:* Requires entities to recover reliability functions performed by BES Cyber Systems by specifying recovery plan requirements in support of the continued stability, operability, and reliability of the BES.
- *CIP–010–3 Configuration Change Management and Vulnerability Assessments:* Requires entities to prevent and detect unauthorized changes to BES Cyber Systems by specifying configuration change management and vulnerability assessment requirements in support of protecting BES Cyber Systems from compromise that could lead to mis-operation or instability in the BES.
- *CIP–011–2 Information Protection:* Requires entities to prevent unauthorized access to BES Cyber System Information by specifying information protection requirements in support of protecting BES Cyber Systems against compromise that could lead to mis-operation or instability in the BES.
- *CIP–012–1 Communications Between Control Centers:*[11] Requires entities to protect the confidentiality and integrity of Real-time Assessment and Real-time monitoring data transmitted between Control Centers.
- *CIP–013–1 Supply Chain Risk Management:* Requires entities to mitigate cybersecurity risks to the reliable operation of the BES by implementing security controls for supply chain risk management of BES Cyber Systems.
- *CIP–014–2 Physical Security:* Requires the Transmission Owner to perform a risk assessment, consisting of a transmission analysis, to determine which of those Transmission stations and Transmission Substations and conduct an assessment of potential threats and vulnerabilities to those Transmission stations, Transmission substations, and primary control centers using a tailored evaluation process.

The CIP Reliability Standards, viewed as a whole, implement a defense-in-depth approach to protecting the security of BES Cyber Systems at all impact levels.[12] The CIP Reliability Standards are objective-based and allow entities to choose compliance approaches best tailored to their systems.[13]

[7] *Version 5 Critical Infrastructure Protection Reliability Standards,* Order No. 791, 78 FR 72755 (Dec. 13, 2013), 145 FERC ¶ 61,160 (2013), *order on reh'g,* Order No. 791–A, 146 FERC ¶ 61,188 (2014).

[8] In general, NERC defines BES to include all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy. *See* NERC, *Bulk Electric System Definition Reference Document,* Version 3, at page iii (August 2018). In Order No. 693, the Commission found that NERC's definition of BES is narrower than the statutory definition of Bulk-Power System. The Commission decided to rely on the NERC definition of BES to provide certainty regarding the applicability of Reliability Standards to specific entities. *See Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 72 FR 16415 (Apr. 4, 2007), 118 FERC ¶ 61,218, at PP 75, 79, 491, *order on reh'g,* Order No. 693–A, 72 FR 49717 (July 25, 2007), 120 FERC ¶ 61,053 (2007).

[9] NERC defines BES Cyber System as ''[o]ne or more BES Cyber Assets logically grouped by a responsible entity to perform one or more reliability tasks for a functional entity.'' NERC, Glossary of Terms Used in NERC Reliability Standards, at 5 (2020), *https://www.nerc.com/files/glossary_of_terms.pdf* (NERC Glossary of Terms). NERC defines BES Cyber Asset as

A Cyber Asset that if rendered unavailable, degraded, or misused would, within 15 minutes of its required operation, mis-operation, or non-operation, adversely impact one or more Facilities, systems, or equipment, which, if destroyed, degraded, or otherwise rendered unavailable when needed, would affect the reliable operation of the Bulk Electric System. Redundancy of affected Facilities, systems, and equipment shall not be considered when determining adverse impact. Each BES Cyber Asset is included in one or more BES Cyber Systems.

Id. at 4.

[10] *See, e.g.,* Order No. 791, 78 FR 72755; *Revised Critical Infrastructure Protection Reliability Standards,* Order No. 822, 81 FR 4177 (Jan. 26, 2016), 154 FERC ¶ 61,037, *reh'g denied,* Order No. 822–A, 156 FERC ¶ 61,052 (2016); *Revised Critical Infrastructure Protection Reliability Standard CIP–003–7—Cyber Security—Security Management Controls,* Order No. 843, 163 FERC ¶ 61,032 (2018).

[11] CIP–012–1: Communications Between Control Centers will be subject to enforcement by July 1, 2022.

[12] Order No. 822, 154 FERC ¶ 61,037 at 32.

[13] Order No. 706, 122 FERC ¶ 61,040 at 72.

FERC–725B—(MANDATORY RELIABILITY STANDARDS FOR CRITICAL INFRASTRUCTURE PROTECTION [CIP] RELIABILITY STANDARDS) AFTER ADDING FILERS FROM CYBERSECURITY INCENTIVES INVESTMENT ACTIVITY

[Submitted as a separate IC within FERC–725B]

	Number and type of respondent [14]	Annual number of responses per respondent)	Total number of responses	Average burden per response (hours) [15] & Cost per response	Total annual burden (hours) & total annual cost [16] ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
CIP–003–8 [17]	[18] 1,149	300	344,700	1.5 hrs.; $127.53	517,050 hrs; $43,959,591
CIP–003–8 [19]	1,149	1	1,149	20 hrs.; $1,700.40	23,220 hrs.; $1,974,164.4
CIP–003–8 [20]	343	1	343	1 hr.; $85.02	343 hrs.; $29,161.86
CIP–002–5.1a, CIP–004–6, CIP–005–6, CIP–006–6, CIP–007–6, CIP–008–6, CIP–009–6, CIP–010–3, CIP–011–2.	343	1	343	600 [21] hrs.; $51,012	205,800 hrs., $17,497,116
CIP–013–1	343	1	343	30 hrs.; $2550.60	10,290 hrs.; $874,855.80
CIP–014–2	[22] 321	1	321	2 hrs.; $170.04	642 hrs.; $54,582.84
CIP–012–1	[23] 724	1	724	83 hrs.; $7,056.66	60,092 hrs., $5,109,021.84
Total Burden of FERC–725B.			347,923		817,437 hrs.; $69,498,493.74

Comments: Commentsare invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) 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.

Dated: September 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19784 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

[14] The number of respondents is based on the NERC Compliance Registry as of June 22, 2021. Currently there are 1,508 unique NERC Registered, subtracting 16 Canadians Entities yields 1492 U.S. entities.

[15] Of the average estimated 295.702 hours per response, 210 hours are for recordkeeping, and 85.702 hours are for reporting.

[16] The estimates for cost per hour are $85.02/hour (averaged based on the following occupations):Manager (Occupational Code: 11–0000): $97.89/hour; and • Electrical Engineer (Occupational Code 17–2071): $72.15/hour, from the Bureau of Labor and Statistics at *http://bls.gov/oes/current/naics3_221000.htm, as of June 2021.*

[17] Updates and reviews of low impact TCA assets (ongoing)

[18] We estimate that 1,161 entities will face an increased paperwork burden under Reliability Standard CIP 003–8, estimating that a majority of these entities will have one or more low impact BES Cyber Systems.

[19] Update paperwork for access control implementation in Section 2 and Section 3 (ongoing)

[20] Modification and approval of cybersecurity policies for all CIP Standards

[21] 600 hr. estimate is based on ongoing burden estimate from Order No. 791, added to the 3-year audit burden split over 3 years: 600 = (640/3) + (408 − (20 + 1)). (20 + 1) is the CIP–003–8 burden.

[22] 321 U.S. Transmission Owners in NERC Compliance Registry as of June 22, 2021.

[23] The number of entities and the number of hours required are based on FERC Order No. 802 which approved CIP–012–1.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2847–000]

Montague 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 Montague 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 September 28, 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: September 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19772 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–128–000.
Applicants: PSEG Fossil LLC, PSEG Fossil Sewaren Urban Renewal LLC, PSEG Keys Energy Center LLC, PSEG Energy Resources & Trade LLC, Parkway Generation, LLC, Parkway Generation Essex, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of PSEG Fossil LLC, et al.
Filed Date: 9/2/21.
Accession Number: 20210902–5163.
Comment Date: 5 p.m. ET 11/1/21.

Docket Numbers: EC21–129–000.
Applicants: Bay Tree Solar, LLC, Bay Tree Lessee, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Bay Tree Solar, LLC, et al.
Filed Date: 9/3/21.
Accession Number: 20210903–5211.
Comment Date: 5 p.m. ET 9/24/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1587–001.
Applicants: Tyr Energy, LLC.
Description: Supplement to August 2, 2021 Notice of Change in Status of Tyr Energy, LLC.
Filed Date: 9/3/21.
Accession Number: 20210903–5149.
Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2535–000.
Applicants: Dichotomy Power Maine, LLC.
Description: Supplement to July 28, 2021 Market-based Rate Application of Dichotomy Power Maine, LLC.
Filed Date: 9/3/21.
Accession Number: 20210903–5136.
Comment Date: 5 p.m. ET 9/13/21.

Docket Numbers: ER21–2698–000.
Applicants: Portland General Electric Company.
Description: Portland General Electric Company submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2022–2023.
Filed Date: 9/7/21.
Accession Number: 20210907–5137.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2840–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Interim ISA, Service Agreement No. 6166, Queue No. AF2–122 to be effective 8/8/2021.
Filed Date: 9/7/21.
Accession Number: 20210907–5046.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2841–000.
Applicants: Ohio Power Company, American Electric Power Service Corporation, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Ohio Power Company submits tariff filing per 35.13(a)(2)(iii: AEP submits the Saint Marys FA re: ILDSA SA No. 1672 to be effective 11/7/2021.
Filed Date: 9/7/21.
Accession Number: 20210907–5088.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2842–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of Lehi City Construction Agreement—Spring Creek to be effective 11/21/2021.
Filed Date: 9/7/21.
Accession Number: 20210907–5099.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2843–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX–ETT (Clear Crossing) Facilities Development Agreement to be effective 8/27/2021.
Filed Date: 9/7/21.
Accession Number: 20210907–5119.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2844–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA/CSA, Service Agreement Nos. 6157/6158; Queue No. AB2–036 to be effective 8/8/2021.
Filed Date: 9/7/21.
Accession Number: 20210907–5125.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2845–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Interim ISA, SA No. 6156; Queue No. AC1–194 to be effective 8/8/2021.
Filed Date: 9/7/21.
Accession Number: 20210907–5140.
Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2846–000.
Applicants: System Energy Resources, Inc.
Description: § 205(d) Rate Filing: SERI UPSA Errata to be effective 6/1/2018.
Filed Date: 9/7/21.
Accession Number: 20210907–5153.
Comment Date: 5 p.m. ET 9/28/21.

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: September 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19742 Filed 9–13–21; 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 Numbers: RP21–1097–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement Filing-Shell Energy to be effective 9/3/2021.
Filed Date: 9/3/21.
Accession Number: 20210903–5120.
Comment Date: 5 pm ET 9/15/21.

Docket Numbers: RP21–1098–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing—

Woodriver Energy LLC to be effective 9/3/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5121.

Comment Date: 5 pm ET 9/15/21.

Docket Numbers: RP21–1099–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Compliance filing: Informational Filing Concerning Market-Based Rate Authority.

Filed Date: 9/3/21.

Accession Number: 20210903–5175.

Comment Date: 5 pm ET 9/15/21.

Docket Numbers: RP21–1100–000.

Applicants: HG Energy II Appalachia, LLC, Loan Asset Issuer LLC, Series 2021 NG–1.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of HG Energy II Appalachia, LLC, et al.

Filed Date: 9/3/21.

Accession Number: 20210903–5197.

Comment Date: 5 pm ET 9/10/21.

Docket Numbers: RP21–1101–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Creditworthiness Provision Clarification to be effective 10/8/2021.

Filed Date: 9/7/21.

Accession Number: 20210907–5041.

Comment Date: 5 pm ET 9/20/21.

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.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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: September 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19744 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–130–000.

Applicants: KCE NY 1, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of KCE NY 1, LLC.

Filed Date: 9/7/21.

Accession Number: 20210907–5213.

Comment Date: 5 p.m. ET 9/28/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1045–003.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Compliance filing: Tri-State Compliance Filing to be effective 2/25/2020.

Filed Date: 9/8/21.

Accession Number: 20210908–5074.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2532–000; ER21–2533–000.

Applicants: Bay Tree Lessee, LLC, Bay Tree Solar, LLC.

Description: Supplement to July 28, 2021 Bay Tree Solar, LLC, et al. tariff filing.

Filed Date: 9/7/21.

Accession Number: 20210907–5143.

Comment Date: 5 p.m. ET 9/17/21.

Docket Numbers: ER21–2847–000.

Applicants: Montague Solar, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 11/1/2021.

Filed Date: 9/7/21.

Accession Number: 20210907–5176.

Comment Date: 5 p.m. ET 9/28/21.

Docket Numbers: ER21–2848–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Worth Solar LGIA Filing to be effective 8/24/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5067.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2849–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 6162; Queue No. AD1–083 to be effective 8/12/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5085.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2850–000.

Applicants: ISO New England Inc.

Description: § 205(d) Rate Filing: Ministerial Filing to Conform Section III.1 Effective August 27, 2021 to be effective 8/27/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5087.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2851–000.

Applicants: New York State Electric & Gas Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: New York State Electric & Gas Corporation submits tariff filing per 35.13(a)(2)(iii): 205 joint EPCA among NYISO, NYSEG, Cassadaga, Arkwright and Ball Hill, SA2642 to be effective 8/25/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5088.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2852–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA/CSA, SA Nos. 5499 and 5534; Queue No. AC1–105 to be effective 10/14/2019.

Filed Date: 9/8/21.

Accession Number: 20210908–5097.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2853–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2021–09–08 Hybrid Resources and Co-located Resources to be effective 12/31/9998.

Filed Date: 9/8/21.

Accession Number: 20210908–5103.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2854–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2021–09–08 Tariff Clarification of the Term Business Day to be effective 11/8/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5112.

Comment Date: 5 p.m. ET 9/29/21.

Docket Numbers: ER21–2855–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2021–09–08 OATT-Att W–E&P-FormofSvcAgrmt-PSCo to be effective 11/28/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5115.

Comment Date: 5 p.m. ET 9/29/21.

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: September 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19773 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14635–001]

Village of Gouverneur, New York; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for an original license for the Gouverneur Hydroelectric Project No. 14635, located on the Oswegatchie River in St. Lawrence County, New York, and has prepared an Environmental Assessment (EA) for the project. No Federal land would be occupied by project works or located within the project boundary.

The EA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA 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. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/eSubscription.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 45 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–14635–001.

For further information, contact Jody Callihan at (202) 502–8278, or at *jody.callihan@ferc.gov.*

Dated: September 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19781 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–474–000]

Rover Pipeline LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed North Coast Interconnect Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the North Coast Interconnect Project involving construction and operation of facilities by Rover Pipeline LLC (Rover) in Seneca County, Ohio. The Commission will use this environmental document in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the Project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the NEPA Process and Environmental Document section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on October 8, 2021. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this Project to the Commission before the opening of this docket on July 20, 2021, you will need to file those comments in Docket No. CP21–474–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company

representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Rover provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP21–474–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Summary of the Proposed Project

Rover has an Interconnect Agreement with North Coast Gas Transmission LLC to construct the North Coast Interconnect to deliver up to 108,000 dekatherms per day of natural gas from the Rover Mainline B to North Coast Gas Transmission's existing Toledo-to-Marion pipeline. The Project would also provide Rover's other existing customers with an additional outlet for existing gas supplies, flexibility for existing volumes, and potentially provide future incremental revenue for the unsubscribed Rover capacity.

The North Coast Interconnect Project would consist of construction and operation of the following facilities:

- Rover would construct, own, and operate a new hot tap, valve, and approximately 140 feet of 6-inch-diameter interconnect piping to connect the Rover Mainline B to new metering facilities constructed by North Coast Gas Transmission; and
- North Coast Gas Transmission would construct, own, and operate a meter station consisting of various elements including meter station piping, a water bath heater, pressure regulation equipment, horizontal filter separator, ultrasonic meter and flow control skids, gas quality building, satellite communications, condensate storage tank, gas odorizer and odorant tank, measurement computer, and a permanent access road.

The general location of the Project facilities is shown in appendix 1.[1]

Land Requirements for Construction

The Project would permanently affect approximately 0.90 acre of agricultural land. Rover would access the Project facilities using a permanent access road to be constructed by North Coast Gas Transmission as part of its metering facilities. This access road would extend from State Route 587 for a distance of approximately 30 feet, with a width of 15 feet, and would consist of crushed gravel affecting approximately 0.016 acre.

A laydown area for equipment and materials would be within the temporary workspace at the meter station site and construction activities would take place entirely within previously surveyed temporary and permanent workspaces associated with the Rover Mainlines A and B, affecting a total area of 1.57 acres. No other access roads, contractor yards, or other land would be required for construction or operation of the Project.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed Project under the relevant general resource areas:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed Project or portions of the Project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed Project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this Project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] The environmental document for this Project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP21–474–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: September 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19782 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC21–158–000]

Edison Electric Institute, American Gas Association; Notice of Filing

Take notice that on September 2, 2021, the Edison Electric Institute and the American Gas Association (collectively, the Associations) submitted a request to extend for an additional six months, until March 31, 2022, the temporary waiver allowing jurisdictional entities to elect a temporary modification of the formula prescribed by the Commission's Uniform System of Accounts for calculating the Allowance for Funds Used During Construction, in response to the ongoing impacts of the COVID–19 emergency.[1]

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 or 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. Such notices, motions, or protests must be filed on or before the

---

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

[1] *See* the White House, *A Letter on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic* (Feb. 24, 2021), A Letter on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic | The White House.

comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of 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 p.m. Eastern Time on September 15, 2021.

Dated: September 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19780 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15113–000]

Kinet, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 12, 2021, Kinet, Inc., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Coons Rapid Hydroelectric Project to be located on the Mississippi River, near the Towns of Brooklyn Park and Coon Rapids, in Hennepin County, Minnesota. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would utilize the impoundment formed by the Hennepin County Dam owned and operated by Suburban Hennepin Regional Park District (Three Rivers Park District) and consist of the following: (1) An existing 975-foot-long by 35-foot-high concrete dam; (2) a 160-square-mile reservoir with a normal storage volume of 1,380 acre-feet at a normal pool elevation of 830 feet mean sea level; (3) three 52-foot-long by 102-foot-wide by 33-foot-high concrete-intake structures with varying depths of between 8 to 32 feet; (4) a new 120-foot-wide by 60-foot-long by 33-foot-high concrete powerhouse containing fifteen 751-kilowatt (kW) turbine-generators for a total project capacity of 10,275 kW; (5) a 54-foot-long by 306-foot-wide tailrace; (6) a 1,200-foot-long, 115-kilovolt transmission line; and (7) appurtenant facilities. The estimated annual generation of the Coon Rapids Hydroelectric Project would be 62,539 megawatt-hours.

Applicant Contact: Mr. Dan Panko, Kinet, Inc, 2401 Monarch Street, Alameda, CA 94501; phone: (802) 578–7973; email: *kinet@natelenergy.com.*

FERC Contact: Tyrone Williams; phone: (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15113–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15113) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19785 Filed 9–13–21; 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 Numbers: PR21–63–000.

Applicants: Kinder Morgan Keystone Gas Storage LLC.

Description: Submits tariff filing per 284.123(b),(e)/: Informational Filing Concerning MBR Authority.

Filed Date: 9/3/2021.

Accession Number: 20210903–5173.

Comments/Protests Due: 5 p.m. ET 9/24/21.

Docket Numbers: PR21–64–000.

Applicants: Banquete Hub LLC.

Description: Submits tariff filing per 284.123(b),(e)/: Informational Filing Concerning MBR Authority.

Filed Date: 9/3/2021.

Accession Number: 20210903–5176.

Comments/Protests Due: 5 p.m. ET 9/24/21.

Docket Numbers: RP21–1102–000.

Applicants: Millennium Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Service Agmt—SWN to be effective 11/1/2021.

Filed Date: 9/7/21.

Accession Number: 20210907–5071.

Comment Date: 5 p.m. ET 9/20/21.

Docket Numbers: RP21–1103–000.

Applicants: DTM Birdsboro Pipeline, LLC.

Description: § 4(d) Rate Filing: Name Change—FERC Gas Tariff Original Volume No. 1 to be effective 9/8/2021.

Filed Date: 9/7/21.

Accession Number: 20210907–5139.

Comment Date: 5 p.m. ET 9/20/21.

Docket Numbers: RP21–1104–000.

Applicants: Rover Pipeline LLC.

Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements on 9–7–21 to be effective 9/1/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5021.

Comment Date: 5 p.m. ET 9/20/21.

Docket Numbers: RP21–1105–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: § 4(d) Rate Filing: Update GT&C Section 12 to be effective 11/1/2021.

Filed Date: 9/8/21.

Accession Number: 20210908–5023.

Comment Date: 5 p.m. ET 9/20/21.

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.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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: September 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19770 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–94–000]

ISO New England Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 7, 2021, the Commission issued an order in Docket No. EL21–94–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether certain provisions of ISO New England Inc.'s Transmission, Markets and Services Tariff is unjust and unreasonable, or otherwise unlawful. *ISO New England Inc.,* 176 FERC ¶ 61,148 (2021).

The refund effective date in Docket No. EL21–94–000, 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. EL21–94–000 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.

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 FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: September 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19736 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–9–000]

The Office of Public Participation; Supplemental Notice of Workshop on Technical Assistance

On August 23, 2021, the Federal Energy Regulatory Commission Office of Public Participation (OPP) issued a notice of a September 16, 2021 virtual workshop to discuss, with the U.S. Department of Energy's Pacific Northwest National Laboratory (PNNL), technical assistance in electric proceedings. The workshop will no longer be held on September 16, 2021, but will be held on October 7, 2021, from 1:00 p.m. to 4:30 p.m. Eastern time.

The workshop will include a panelist discussion on technical assistance followed by facilitated break-out sessions for attendees to discuss their technical assistance needs. The workshop will explore barriers preventing the public, including consumers and consumer advocates, from fully participating in Commission proceedings and explore how OPP can facilitate technical assistance.

The workshop will be open for the public to attend, and there is no fee for attendance. Further details on the agenda, including registration information, can be found on the PNNL website. Information on this technical workshop will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

The workshop will be accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY) or send a FAX to 202–208–2106 with the required accommodations.

For more information about the workshop, please contact Corey Cox of the Commission's Office of Public Participation at 202–502–6848 or send an email to *OPPWorkshop@ferc.gov.* This notice is issued and published in accordance with 18 CFR 2.1.

Dated: September 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19778 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2826–000]

NRG Curtailment Solutions, Inc.; 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 NRG Curtailment Solutions, Inc.'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 September 27, 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: September 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–19743 Filed 9–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Rate Schedules

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of extension of integrated system rate schedules.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern) has approved and placed into effect on an interim basis Rate Order No. SWPA–77, which extends the following existing Southwestern Integrated System rate schedules: *Rate Schedule P–13A, Wholesale Rates for Hydro Peaking Power; Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service;* and *Rate Schedule EE–13, Wholesale Rates for Excess Energy.* This is an interim rate action effective October 1, 2021, extending for a period of two years through September 30, 2023.

DATES: The effective period for the rate schedules specified in Rate Order No. SWPA–77 is October 1, 2021, through September 30, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President and Chief Operating Officer, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6684 or email: *fritha.ohlson@swpa.gov.*

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–77 is approved and placed into effect on an interim basis for the period October 1, 2021, through September 30, 2023, for the following Southwestern Integrated System rate schedules:

Rate Schedule P–13A, Wholesale Rates for Hydro Peaking Power

Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service

Rate Schedule EE–13, Wholesale Rates for Excess Energy

Decision Rationale

The Southwestern Administrator completed an annual review of the continuing adequacy of the existing rate schedules for the Integrated System. This review, as presented in the 2021 Integrated System Power Repayment Studies (PRSs), indicated the need for a 1.3 percent revenue increase to continue to satisfy cost recovery criteria. It is Southwestern practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for the Integrated System if such adjustments are within plus or minus two percent of the revenue estimate based on the current Integrated System rate schedules. The deferral of a revenue adjustment (rate change) provides for rate stability and savings on the administrative costs of implementation. The Administrator determined it to be prudent to defer the increase and allow the current Integrated System rate schedules, which are set to expire September 30, 2021, to remain in effect.

To ensure that Southwestern has rate schedules in effect for collection of revenue in order to meet its repayment obligations, the Administrator has approved and placed into effect a two-year extension of the Integrated System rate schedules for the period October 1, 2021, through September 30, 2023.

The Administrator followed part 903, subpart A of title 10 of the Code of Federal Regulations (CFR), ''Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions'' for the extension of the rate schedules. The public was informed by notice, published in the **Federal Register** (86 FR 31500 (June 14, 2021)) of the proposed extension of the rate schedules and of the opportunity to provide written comments for a period of 30 days ending July 14, 2021. No comments were received.

Legal Authority

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Southwestern Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S4–2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4–DEL–OE1–2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. And by Redelegation Order No. 00–002.10–04, effective July 8, 2020, the Assistant Secretary for Electricity further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator. This redelegation order, despite predating the February 2021 delegation and March 2021 redelegation, remains valid. By these delegations, and in accordance with 10 CFR 903.22(h) and 10 CFR 903.23(a), as amended, (84 FR 5347, 5350 (Feb. 21, 2019)), the Administrator may approve and extend, on an interim basis, rates previously confirmed and approved by FERC beyond the period specified by FERC.

Environmental Impact

Southwestern previously determined that the rate change actions, placed into effect on October 1, 2013 for the Integrated System fit within the class of categorically excluded actions as listed in appendix B to subpart D of 10 CFR part 1021, the Implementing Procedures and Guidelines of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347), categorical exclusions applicable to B4.3: Electric power marketing rate changes, which does not require preparation of either an environmental impact statement (EIS) or an environmental assessment (EA). On May 27, 2021, Southwestern determined that categorical exclusion B4.3 applies to the current action.

Determination Under Executive Order 12866

Southwestern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

In the matter of: Southwestern Power Administration Integrated System Rate Schedules
Rate Order No. SWPA–77

ORDER APPROVING EXTENSION OF RATE SCHEDULES ON AN INTERIM BASIS

(August 30, 2021)

Pursuant to Sections 301(b) and 302(a) and of the Department of Energy Organization Act, Public Law 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to, and vested in the Secretary of Energy. By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Southwestern Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S4–2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4–DEL–OE1–2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. And by Redelegation Order No. 00–002.10–04, effective July 8, 2020, the Assistant Secretary for Electricity further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator. This redelegation order, despite predating the February 2021 delegation and March 2021 redelegation, remains valid. By these delegations, and in accordance with 10 CFR 903.22(h) and 10 CFR 903.23(a), as amended, (84 FR 5347, 5350 (Feb. 21, 2019)), the Southwestern Administrator may approve and extend, on an interim basis, rates previously confirmed and approved by FERC beyond the period specified by FERC. Pursuant to that delegated authority, the Southwestern Administrator has issued this interim rate order.

BACKGROUND

The following rate schedules for the Integrated System were confirmed and approved on a final basis by FERC on January 9, 2014, in Docket No. EF14–1–000 (146 FERC ¶ 62,016) for the period October 1, 2013, through September 30, 2017:

Rate Schedule P–13, Wholesale Rates for Hydro Peaking Power

Rate Schedule NFTS–13, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service

Rate Schedule EE–13, Wholesale Rates for Excess Energy

Since initial FERC approval, Southwestern added a new section within rate schedule NFTS–13 with no revenue adjustment and the revised rate schedule was designated NFTS–13A to reflect the change. The following rate schedule was placed into effect on an interim basis by the Deputy Secretary for Energy, effective January 1, 2017, and was confirmed and approved on a final basis by FERC on March 9, 2017, in Docket No. EF14–1–001 (158 FERC ¶ 62,182):

Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service

A two-year extension of all Integrated System rate schedules was approved on an interim basis by the Deputy Secretary in Docket No. EF14–1–002 for the period October 1, 2017, through September 30, 2019. Subsequently, Southwestern added a new section within rate schedule P–13 with no revenue adjustment and the revised rate schedule was designated P–13A to reflect the change. The following rate schedule was placed into effect on an interim basis by the Assistant Secretary for Electricity, effective July 1, 2019, and was confirmed and approved on a final basis by FERC on August 29, 2019, in Docket No. EF14–1–003 (168 FERC ¶ 62,125):

Rate Schedule P–13A, Wholesale Rates for Hydro Peaking Power

A two-year extension of all Integrated System rate schedules was approved on an interim basis by the Assistant Secretary for Electricity for the period of

October 1, 2019, through September 30, 2021.

DISCUSSION

The existing Integrated System rate schedules are based on the Southwestern 2013 Power Repayment Studies (PRSs). PRSs have been completed for the Integrated System each year since approval of the existing rate schedules. Since 2013, subsequent PRSs have indicated the need for a minimal rate increase, all within the plus or minus two percent rate adjustment threshold practice established by the Administrator on June 23, 1987. Therefore, the Administrator deferred these rate adjustments in the best interest of the government.

However, the existing rate schedules are set to expire on September 30, 2021. Consequently, Southwestern proposed to extend the existing rate schedules for a two-year period ending September 30, 2023, on an interim basis under the implementation authorities noted in 10 CFR 903.22(h) and 10 CFR 903.23(a).

Southwestern followed 10 CFR part 903, ''Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions,'' for the proposed extension of the rate schedules. An opportunity for customers and other interested members of the public to review and comment on the proposed extension of the rate schedules was announced by notice, published in the **Federal Register** on June 14, 2021 (86 FR 31500), with written comments due by July 14, 2021.

COMMENTS AND RESPONSES

Southwestern received no comments regarding the extension of the rate schedules.

AVAILABILITY OF INFORMATION

Information regarding the extension of the rate schedules is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third Street, Tulsa, Oklahoma 74103. The rate schedules are available on the Southwestern website at *www.swpa.gov.*

ADMINISTRATION'S CERTIFICATION

The 2013 Integrated System PRSs indicated that the current rate schedules will repay all costs of the Integrated System, including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. The 2021 Integrated System PRSs indicated the need for an annual revenue increase of 1.3 percent. However, the 2021 rate adjustment falls within the Southwestern established plus or minus two percent Integrated System rate adjustment threshold practice and was deferred.

The Southwestern 2022 PRSs will determine the appropriate level of revenues needed for the next rate period. In accordance with Delegation Order No. 00–037.00B, effective November 19, 2016, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the existing rate schedules are the lowest possible rates consistent with sound business principles, and their extension is consistent with applicable law.

ENVIRONMENT

Southwestern previously determined that the rate change actions, placed into effect on October 1, 2013 for the Integrated System, fit within the class of categorically excluded actions as listed in appendix B to subpart D of 10 CFR part 1021, the Implementing Procedures and Guidelines of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347), categorical exclusions applicable to B4.3: Electric power marketing rate changes, which does not require preparation of either an environmental impact statement (EIS) or an environmental assessment (EA). On May 27, 2021, Southwestern determined that categorical exclusion B4.3 applies to the current action.

ADMINISTRATIVE PROCEDURES

Under the Administrative Procedure Act (5 U.S.C. 553(d)), publication or service of a substantive rule must be made not less than 30 days before its effective date, except (1) a substantive rule that grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. The Administrator finds good cause to waive the 30-day delay in the effective date of this action as unnecessary for the following reasons: (1) This is an extension of rates previously approved by FERC, pursuant to 10 CFR 903.23(a); (2) there are no substantive changes, as the existing rate schedules and anticipated revenues remain the same; and (3) the Administrator provided notice and opportunity for public comment more than 30 days prior to the effective date of the rate extension and received no comments.

ORDER

In view of the foregoing, and pursuant to delegated authority from the Secretary of Energy, I hereby extend on an interim basis, for the period of two years, effective October 1, 2021, through September 30, 2023, the current Integrated System rate schedules:

Rate Schedule P–13A, Wholesale Rates for Hydro Peaking Power

Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service

Rate Schedule EE–13, Wholesale Rates for Excess Energy

Signing Authority

This document of the Department of Energy was signed on August 30, 2021, by Mike Wech, Administrator for Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DOE. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 8, 2021.

Treena V. Garrett,

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

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

RATE SCHEDULE P–13A [1] **

WHOLESALE RATES FOR HYDRO PEAKING POWER

Effective: During the period October 1, 2013, through September 30, 2023,** in accordance with the Federal Energy Regulatory Commission (FERC) order issued in Docket No. EF14–1–000 (Jan. 9, 2014), extension approved by the Deputy Secretary in Docket No. EF14–1–002 (Sept. 13, 2017), modification approved by FERC in Docket No. EF14–1–003 (Aug. 29, 2019), extension approved by Assistant Secretary for Electricity in Rate Order No. 74 (Sept. 22, 2019), and extension approved by the Administrator in Rate Order No. 77 (August 30, 2021).

[1] Supersedes Rate Schedule P–13.

** Extended through September 30, 2023, by approval of Rate Order No. SWPA–77 by the Administrator, Southwestern Power Administration.

Available: In the marketing area of Southwestern Power Administration (Southwestern), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable: To wholesale Customers which have contractual rights from Southwestern to purchase Hydro Peaking Power and associated energy (Peaking Energy and Supplemental Peaking Energy).

Character and Conditions of Service: Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage(s), at the point(s) of delivery, and in such quantities as are specified by contract.

1. Definitions of Terms

1.1. Ancillary Services

The services necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the System of Southwestern in accordance with good utility practice, which include the following:

1.1.1. Scheduling, System Control, and Dispatch Service

is provided by Southwestern as Balancing Authority Area operator and is in regard to interchange and load-match scheduling and related system control and dispatch functions.

1.1.2. Reactive Supply and Voltage Control From Generation Sources Service

is provided at transmission facilities in the System of Southwestern to produce or absorb reactive power and to maintain transmission voltages within specific limits.

1.1.3. Regulation and Frequency Response Service

is the continuous balancing of generation and interchange resources accomplished by raising or lowering the output of on-line generation as necessary to follow the moment-by-moment changes in load and to maintain frequency within a Balancing Authority Area.

1.1.4. Spinning Operating Reserve Service

maintains generating units on-line, but loaded at less than maximum output, which may be used to service load immediately when disturbance conditions are experienced due to a sudden loss of generation or load.

1.1.5. Supplemental Operating Reserve Service

provides an additional amount of operating reserve sufficient to reduce Area Control Error to zero within 10 minutes following loss of generating capacity which would result from the most severe single contingency.

1.1.6. Energy Imbalance Service

corrects for differences over a period of time between schedules and actual hourly deliveries of energy to a load. Energy delivered or received within the authorized bandwidth for this service is accounted for as an inadvertent flow and is returned to the providing party by the receiving party in accordance with standard utility practice or a contractual arrangement between the parties.

1.2. Customer

The entity which is utilizing and/or purchasing Federal Power and Federal Energy and services from Southwestern pursuant to this Rate Schedule.

1.3. Demand Period

The period of time used to determine maximum integrated rates of delivery for the purpose of power accounting which is the 60-minute period that begins with the change of hour.

1.4. Federal Power and Energy

The power and energy provided from the System of Southwestern.

1.5. Hydro Peaking Power

The Federal Power that Southwestern sells and makes available to the Customers through their respective Power Sales Contracts in accordance with this Rate Schedule.

1.6. Peaking Billing Demand

The quantity equal to the Peaking Contract Demand for any month unless otherwise provided by the Customer's Power Sales Contract.

1.7. Peaking Contract Demand

The maximum rate in kilowatts at which Southwestern is obligated to deliver Federal Energy associated with Hydro Peaking Power as set forth in the Customer's Power Sales Contract.

1.8. Peaking Energy

The Federal Energy associated with Hydro Peaking Power that Southwestern sells and makes available to the Customer in accordance with the terms and conditions of the Customer's Power Sales Contract.

1.9. Peaking Energy Schedule Submission Time

The time by which Southwestern requires the Customer to submit Peaking Energy schedules to Southwestern as provided for in this Rate Schedule and in accordance with the terms and conditions of the Customer's Power Sales Contract.

1.10. Power Sales Contract

The Customer's contract with Southwestern for the sale of Federal Power and Federal Energy.

1.11. Supplemental Peaking Energy

The Federal Energy associated with Hydro Peaking Power that Southwestern sells and makes available to the Customer if determined by Southwestern to be available and that is in addition to the quantity of Peaking Energy purchased by the Customer in accordance with the terms and conditions of the Customer's Power Sales Contract.

1.12. System of Southwestern

The transmission and related facilities owned by Southwestern, and/or the generation, transmission, and related facilities owned by others, the capacity of which, by contract, is available to and utilized by Southwestern to satisfy its contractual obligations to the Customer.

1.13. Uncontrollable Force

Any force which is not within the control of the party affected, including, but not limited to failure of water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, riot, civil disturbance, labor disturbance, sabotage, war, act of war, terrorist acts, or restraint by court of general jurisdiction, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

2. Wholesale Rates, Terms, and Conditions for Hydro Peaking Power, Peaking Energy, Supplemental Peaking Energy, and Associated Services

Unless otherwise specified, this Section 2 is applicable to all sales under the Customer's Power Sales Contract.

2.1. Hydro Peaking Power Rates, Terms, and Conditions

2.1.1. Monthly Capacity Charge for Hydro Peaking Power

$4.50 per kilowatt of Peaking Billing Demand.

2.1.2. Services Associated With Capacity Charge for Hydro Peaking Power

The capacity charge for Hydro Peaking Power includes such transmission services as are necessary to integrate Southwestern's resources in order to reliably deliver Hydro Peaking Power and associated energy to the Customer. This capacity charge also includes two Ancillary Services charges: Scheduling, System Control, and Dispatch Service; and Reactive Supply and Voltage Control from Generation Sources Service.

2.1.3. Secondary Transmission Service Under Capacity Associated With Hydro Peaking Power

Customers may utilize the transmission capacity associated with Peaking Contract Demand for the transmission of non-Federal energy, on a non-firm, as-available basis, at no additional charge for such transmission service or associated Ancillary Services, under the following terms and conditions:

2.1.3.1. The sum of the capacity, for any hour, which is used for Peaking Energy, Supplemental Peaking Energy, and Secondary Transmission Service, may not exceed the Peaking Contract Demand;

2.1.3.2. The non-Federal energy transmitted under such secondary service is delivered to the Customer's point of delivery for Hydro Peaking Power;

2.1.3.3. The Customer commits to provide Real Power Losses associated with such deliveries of non-Federal energy; and

2.1.3.4. Sufficient transfer capability exists between the point of receipt into the System of Southwestern of such non-Federal energy and the Customer's point of delivery for Hydro Peaking Power for the time period that such secondary transmission service is requested.

2.1.4. Adjustment for Reduction in Service

If, during any month, the Peaking Contract Demand associated with a Power Sales Contract in which Southwestern has the obligation to provide 1,200 kilowatthours of Peaking Energy per kilowatt of Peaking Contract Demand is reduced by Southwestern for a period or periods of not less than two consecutive hours by reason of an outage caused by either an Uncontrollable Force or by the installation, maintenance, replacement or malfunction of generation, transmission and/or related facilities on the System of Southwestern, or insufficient pool levels, the Customer's capacity charges for such month will be reduced for each such reduction in service by an amount computed under the formula:

$$R = (C \times K \times H) \div S$$

with the factors defined as follows:

R = The dollar amount of reduction in the monthly total capacity charges for a particular reduction of not less than two consecutive hours during any month, except that the total amount of any such reduction shall not exceed the product of the Customer's capacity charges associated with Hydro Peaking Power times the Peaking Billing Demand.

C = The Customer's capacity charges associated with Hydro Peaking Power for the Peaking Billing Demand for such month.

K = The reduction in kilowatts in Peaking Billing Demand for a particular event.

H = The number of hours duration of such particular reduction.

S = The number of hours that Peaking Energy is scheduled during such month, but not less than 60 hours times the Peaking Contract Demand.

Such reduction in charges shall fulfill Southwestern's obligation to deliver Hydro Peaking Power and Peaking Energy.

2.2. Peaking Energy and Supplemental Peaking Energy Rates, Terms, and Conditions

2.2.1. Peaking Energy Charge

$0.0094 per kilowatthour of Peaking Energy delivered plus the Purchased Power Adder as defined in Section 2.2.3 of this Rate Schedule.

2.2.2. Supplemental Energy Charge

$0.0094 per kilowatthour of Supplemental Peaking Energy delivered.

2.2.3. Purchased Power Adder

A purchased power adder of $0.0059 per kilowatthour of Peaking Energy delivered, as adjusted by the Administrator, Southwestern, in accordance with the procedure within this Rate Schedule.

2.2.3.1. Applicability of Purchased Power Adder

The Purchased Power Adder shall apply to sales of Peaking Energy. The Purchased Power Adder shall not apply to sales of Supplemental Peaking Energy or sales to any Customer which, by contract, has assumed the obligation to supply energy to fulfill the minimum of 1,200 kilowatthours of Peaking Energy per kilowatt of Peaking Contract Demand during a contract year (hereinafter ''Contract Support Arrangements'').

2.2.3.2. Procedure for Determining Net Purchased Power Adder Adjustment

Not more than twice annually, the Purchased Power Adder of $0.0059 (5.9 mills) per kilowatthour of Peaking Energy, as noted in this Rate Schedule, may be adjusted by the Administrator, Southwestern, by an amount up to a total of □$0.0059 (5.9 mills) per kilowatthour per year, as calculated by the following formula:

$$ADJ = (PURCH - EST + DIF) \div SALES$$

with the factors defined as follows:

ADJ = The dollar per kilowatthour amount of the total adjustment, plus or minus, to be applied to the net Purchased Power Adder, rounded to the nearest $0.0001 per kilowatt–hour, provided that the total ADJ to be applied in any year shall not vary from the then-effective ADJ by more than $0.0059 per kilowatthour;

PURCH = The actual total dollar cost of Southwestern's System Direct Purchases as accounted for in the financial records of the Southwestern Federal Power System for the period;

EST = The estimated total dollar cost ($13,273,800 per year) of Southwestern's System Direct Purchases used as the basis for the Purchased Power Adder of $0.0059 per kilowatt–hour of Peaking Energy;

DIF = The accumulated remainder of the difference in the actual and estimated total dollar cost of Southwestern's System Direct Purchases since the effective date of the currently approved Purchased Power Adder set forth in this Rate Schedule, which remainder is not projected for recovery through the ADJ in any previous periods;

SALES = The annual Total Peaking Energy sales projected to be delivered (2,241,300,000 KWh per year) from the System of Southwestern, which total was used as the basis for the $0.0059 per kilowatthour Purchased Power Adder.

2.3 Transformation Service Rates, Terms, and Conditions

2.3.1 Monthly Capacity Charge for Transformation Service

$0.46 per kilowatt will be assessed for capacity used to deliver energy at any point of delivery at which Southwestern provides transformation service for deliveries at voltages of 69 kilovolts or less from higher voltage facilities.

2.3.2 Applicability of Capacity Charge for Transformation Service

Unless otherwise specified by contract, for any particular month, a charge for transformation service will be assessed on the greater of (1) that month's highest metered demand, or (2) the highest metered demand recorded during the previous 11 months, at any point of delivery. For the purpose of this Rate Schedule, the highest metered demand will be based on all deliveries,

of both Federal and non-Federal energy, from the System of Southwestern, at such point during such month.

2.4. Ancillary Services Rates, Terms, and Conditions

2.4.1. Capacity Charges for Ancillary Services

2.4.1.1. Regulation and Frequency Response Service

Monthly rate of $0.07 per kilowatt of Peaking Billing Demand plus the Regulation Purchased Adder as defined in Section 2.4.5 of this Rate Schedule.

2.4.1.2. Spinning Operating Reserve Service

Monthly rate of $0.0146 per kilowatt of Peaking Billing Demand.

Daily rate of $0.00066 per kilowatt for non-Federal generation inside Southwestern's Balancing Authority Area.

2.4.1.3. Supplemental Operating Reserve Service

Monthly rate of $0.0146 per kilowatt of Peaking Billing Demand.

Daily rate of $0.00066 per kilowatt for non-Federal generation inside Southwestern's Balancing Authority Area.

2.4.1.4. Energy Imbalance Service

$0.0 per kilowatt for all reservation periods.

2.4.2. Availability of Ancillary Services

Regulation and Frequency Response Service and Energy Imbalance Service are available only for deliveries of power and energy to load within Southwestern's Balancing Authority Area. Spinning Operating Reserve Service and Supplemental Operating Reserve Service are available only for deliveries of non-Federal power and energy generated by resources located within Southwestern's Balancing Authority Area and for deliveries of all Hydro Peaking Power and associated energy from and within Southwestern's Balancing Authority Area. Where available, such Ancillary Services must be taken from Southwestern; unless, arrangements are made in accordance with Section 2.4.4 of this Rate Schedule.

2.4.3. Applicability of Charges for Ancillary Services

For any month, the charges for Ancillary Services for deliveries of Hydro Peaking Power shall be based on the Peaking Billing Demand.

The daily charge for Spinning Operating Reserve Service and Supplemental Operating Reserve Service for non-Federal generation inside Southwestern's Balancing Authority Area shall be applied to the greater of Southwestern's previous day's estimate of the peak, or the actual peak, in kilowatts, of the internal non-Federal generation.

2.4.4. Provision of Ancillary Services by Others

Customers for which Ancillary Services are made available as specified above, must inform Southwestern by written notice of the Ancillary Services which they do not intend to take and purchase from Southwestern, and of their election to provide all or part of such Ancillary Services from their own resources or from a third party.

Subject to Southwestern's approval of the ability of such resources or third parties to meet Southwestern's technical and operational requirements for provision of such Ancillary Services, the Customer may change the Ancillary Services which it takes from Southwestern and/or from other sources at the beginning of any month upon the greater of 60 days notice or upon completion of any necessary equipment modifications necessary to accommodate such change; Provided, That, if the Customer chooses not to take Regulation and Frequency Response Service, which includes the associated Regulation Purchased Adder, the Customer must pursue these services from a different host Balancing Authority; thereby moving all metered loads and resources from Southwestern's Balancing Authority Area to the Balancing Authority Area of the new host Balancing Authority. Until such time as that meter reconfiguration is accomplished, the Customer will be charged for the Regulation and Frequency Response Service and applicable Adder then in effect. The Customer must notify Southwestern by July 1 of this choice, to be effective the subsequent calendar year.

2.4.5. Regulation Purchased Adder

Southwestern has determined the amount of energy used from storage to provide Regulation and Frequency Response Service in order to meet Southwestern's Balancing Authority Area requirements. The replacement value of such energy used shall be recovered through the Regulation Purchased Adder. The Regulation Purchased Adder during the time period of January 1 through December 31 of the current calendar year is based on the average annual use of energy from storage [1] for Regulation and Frequency Response Service and Southwestern's estimated purchased power price for the corresponding year from the most currently approved Power Repayment Studies.

The Regulation Purchased Adder will be phased in over a period of four (4) years as follows:

Year	Regulation purchased adder for the incremental replacement value of energy used from storage
2014	¼ of the average annual use of energy from storage × 2014 Purchased Power price.
2015	½ of the average annual use of energy from storage × 2015 Purchased Power price.
2016	¾ of the average annual use of energy from storage × 2016 Purchased Power price.
2017 and thereafter	The total average annual use of energy from storage × the applicable Purchased Power price.

2.4.5.1. Applicability of Regulation Purchased Adder

The replacement value of the estimated annual use of energy from storage for Regulation and Frequency Response Service shall be recovered by Customers located within Southwestern's Balancing Authority Area on a non-coincident peak ratio share basis, divided into twelve equal monthly payments, in accordance with the formula in Section 2.4.5.2.

If the Regulation Purchased Adder is determined and applied under Southwestern's Rate Schedule NFTS–13A, then it shall not be applied here.

2.4.5.2. Procedure for Determining Regulation Purchased Adder

Unless otherwise specified by contract, the Regulation Purchased Adder for an individual Customer shall be based on the following formula rate, calculated to include the replacement value of the estimated annual use of

[1] The average annual use of energy from storage for Regulation and Frequency Response Service is based on Southwestern studies.

energy from storage by Southwestern for Regulation and Frequency Response Service.

RPA = The Regulation Purchased Adder for an individual Customer per month, which is as follows:

$[(L_{Customer} \div L_{Total}) \times RP_{Total}] \div 12$

with the factors defined as follows:

$L_{Customer}$ = The sum in MW of the following three factors:

(1) The Customer's highest metered load plus generation used to serve the Customer's load that is accounted for through a reduction in the Customer's metered load (referred to as 'generation behind the meter') during the previous calendar year, and

(2) The Customer's highest rate of Scheduled Exports [2] during the previous calendar year, and

(3) The Customer's highest rate of Scheduled Imports [2] during the previous calendar year.

L_{Total} = The sum of all L Customer factors for all Customers that were inside Southwestern's Balancing Authority Area at the beginning of the previous calendar year in MW.

RP_{Total} = The ''net'' cost in dollars and cents based on Southwestern's estimated purchased power price for the corresponding year from the most currently approved Power Repayment Studies multiplied by the average annual use of energy from storage, as provided for in the table in Section 2.4.5, to support Southwestern's ability to regulate within its Balancing Authority Area. The ''net'' cost in dollars and cents shall be adjusted by subtracting the product of the quantity of such average annual use of energy from storage in MWh and Southwestern's highest rate in dollars per MWh for Supplemental Peaking Energy during the previous calendar year.

For Customers that have aggregated their load, resources, and scheduling into a single node by contract within Southwestern's Balancing Authority Area, the individual Customer's respective Regulation Purchased Adder shall be that Customer's ratio share of the Regulation Purchased Adder established for the node. Such ratio share shall be determined for the Customer on a non-coincident basis and shall be calculated for the Customer from their highest metered load plus generation behind the meter.

2.4.6. Energy Imbalance Service Limitations

Energy Imbalance Service primarily applies to deliveries of power and energy which are required to satisfy a Customer's load. As Hydro Peaking Power and associated energy are limited by contract, the Energy Imbalance Service bandwidth specified for Non-Federal Transmission Service does not apply to deliveries of Hydro Peaking Power, and therefore Energy Imbalance Service is not charged on such deliveries. Customers who consume a capacity of Hydro Peaking Power greater than their Peaking Contract Demand may be subject to a Capacity Overrun Penalty.

3. Hydro Peaking Power Penalties, Terms, and Conditions

3.1. Capacity Overrun Penalty

3.1.1. Penalty Charge for Capacity Overrun

For each hour during which Hydro Peaking Power was provided at a rate greater than that to which the Customer is entitled, the Customer will be charged a Capacity Overrun Penalty at the following rates:

Months associated with charge	Rate per kilowatt
March, April, May, October, November, December	$0.15
January, February, June, July, August, September	0.30

3.1.2. Applicability of Capacity Overrun Penalty

Customers which have loads within Southwestern's Balancing Authority Area are obligated by contract to provide resources, over and above the Hydro Peaking Power and associated energy purchased from Southwestern, sufficient to meet their loads. A Capacity Overrun Penalty shall be applied only when the formulas provided in Customers' respective Power Sales Contracts indicate an overrun on Hydro Peaking Power, and investigation determines that all resources, both firm and non-firm, which were available at the time of the apparent overrun were insufficient to meet the Customer's load.

3.2. Energy Overrun Penalty

3.2.1. Penalty Charge for Energy Overrun

$0.1034 per kilowatthour for each kilowatthour of overrun.

3.2.2. Applicability of Energy Overrun Penalty

By contract, the Customer is subject to limitations on the maximum amounts of Peaking Energy which may be scheduled under the Customer's Power Sales Contract. When the Customer schedules an amount in excess of such maximum amounts, such Customer is subject to the Energy Overrun Penalty.

3.3. Power Factor Penalty

3.3.1. Requirements Related to Power Factor

Any Customer served from facilities owned by or available by contract to Southwestern will be required to maintain a power factor of not less than 95 percent and will be subject to the following provisions.

3.3.2. Determination of Power Factor

The power factor will be determined for all Demand Periods and shall be calculated under the formula:

$$PF = (kWh) \div \sqrt{(kWh^2 + rkVAh^2)}$$

with the factors defined as follows:

PF = The power factor for any Demand Period of the month.

kWh = The total quantity of energy which is delivered during such Demand Period to the point of delivery or interconnection in accordance with Section 3.3.4.

rkVAh = The total quantity of reactive kilovolt-ampere-hours (kVARs) delivered during such Demand Period to the point of delivery or interconnection in accordance with Section 3.3.4.

3.3.3. Penalty Charge for Power Factor

The Customer shall be assessed a penalty for all Demand Periods of a month where the power factor is less than 95 percent lagging. For any Demand Period during a particular month such penalty shall be in accordance with the following formula:

$$C = D \times (0.95 - LPF) \times \$0.10$$

with the factors defined as follows:

C = The charge in dollars to be assessed for any particular Demand Period of such month that the determination of power

[2] Scheduled Exports and Scheduled Imports are transactions, such as sales and purchases respectively, which are in addition to a Customer's metered load that contribute to Southwestern's Balancing Authority Area need for regulation.

factor ''PF'' is calculated to be less than 95 percent lagging.

D = The Customer's demand in kilowatts at the point of delivery for such Demand Period in which a low power factor was calculated.

LPF = The lagging power factor, if any, determined by the formula ''PF'' for such Demand Period.

If C is negative, then C = zero (0).

3.3.4. Applicability of Power Factor Penalty

The Power Factor Penalty is applicable to radial interconnections with the System of Southwestern. The total Power Factor Penalty for any month shall be the sum of all charges ''C'' for all Demand Periods of such month. No penalty is assessed for leading power factor. Southwestern, in its sole judgment and at its sole option, may determine whether power factor calculations should be applied to (i) a single physical point of delivery, (ii) a combination of physical points of delivery where a Customer has a single, electrically integrated load, (iii) or interconnections. The general criteria for such decision shall be that, given the configuration of the Customer's and Southwestern's systems, Southwestern will determine, in its sole judgment and at its sole option, whether the power factor calculation more accurately assesses the detrimental impact on Southwestern's system when the above formula is calculated for a single physical point of delivery, a combination of physical points of delivery, or for an interconnection as specified by an Interconnection Agreement.

Southwestern, at its sole option, may reduce or waive Power Factor Penalties when, in Southwestern's sole judgment, low power factor conditions were not detrimental to the System of Southwestern due to particular loading and voltage conditions at the time the power factor dropped below 95 percent lagging.

4. Hydro Peaking Power Miscellaneous Rates, Terms, and Conditions

4.1. Real Power Losses

Customers are required to self-provide all Real Power Losses for non-Federal energy transmitted by Southwestern on behalf of such Customers under the provisions detailed below.

Real Power Losses are computed as four (4) percent of the total amount of non-Federal energy transmitted by Southwestern. The Customer's monthly Real Power Losses are computed each month on a megawatthour basis as follows:

$$ML = 0.04 \times NFE$$

with the factors defined as follows:

ML = The total monthly loss energy, rounded to the nearest megawatthour, to be scheduled by a Customer for receipt by Southwestern for Real Power Losses associated with non-Federal energy transmitted on behalf of such Customer; and

NFE = The amount of non-Federal energy that was transmitted by Southwestern on behalf of a Customer during a particular month.

The Customer must schedule or cause to be scheduled to Southwestern, Real Power Losses for which it is responsible subject to the following conditions:

4.1.1. The Customer shall schedule and deliver Real Power Losses back to Southwestern during the second month after they were incurred by Southwestern in the transmission of the Customer's non-Federal power and energy over the System of Southwestern unless such Customer has accounted for Real Power Losses as part of a metering arrangement with Southwestern.

4.1.2. On or before the twentieth day of each month, Southwestern shall determine the amount of non-Federal loss energy it provided on behalf of the Customer during the previous month and provide a written schedule to the Customer setting forth hour-by-hour the quantities of non-Federal energy to be delivered to Southwestern as losses during the next month.

4.1.3. Real Power Losses not delivered to Southwestern by the Customer, according to the schedule provided, during the month in which such losses are due shall be billed by Southwestern to the Customer to adjust the end-of-month loss energy balance to zero (0) megawatthours and the Customer shall be obliged to purchase such energy at the following rates:

Months associated with charge	Rate per kilowatthour
March, April, May, October, November, December	$0.15
January, February, June, July, August, September	0.30

4.1.4. Real Power Losses delivered to Southwestern by the Customer in excess of the losses due during the month shall be purchased by Southwestern from the Customer at a rate per megawatthour equal to Southwestern's rate per megawatthour for Supplemental Peaking Energy, as set forth in Southwestern's then-effective Rate Schedule for Hydro Peaking Power to adjust such hourly end-of-month loss energy balance to zero (0) megawatthours.

4.2. Peaking Energy Schedule Submission Time

Southwestern's Peaking Energy Schedule Submission Time is on or before 2:30 p.m. Central Prevailing Time (CPT), as adjusted by the Administrator, Southwestern, in accordance with Section 4.2.2 in this Rate Schedule, of the day preceding the day for the delivery of Peaking Energy. The Peaking Energy Schedule Submission Time supersedes the Peaking Energy schedule submission time provided in the Customer's Power Sales Contract, pursuant to Section 4.2.1 of this Rate Schedule.

4.2.1. Applicability of Peaking Energy Schedule Submission Time

The Peaking Energy Schedule Submission Time shall apply to the scheduling of Peaking Energy. The Peaking Energy Schedule Submission Time shall not apply to the scheduling of Supplemental Peaking Energy or to Contract Support Arrangements.

4.2.2. Procedure for Adjusting the Peaking Energy Schedule Submission Time

Not more than once annually, the Peaking Energy Schedule Submission Time of 2:30 p.m. CPT, as noted in Section 4.2 of this Rate Schedule, may be adjusted by the Administrator, Southwestern, to a time no earlier than 2:00 p.m. CPT and no later than 3:00 p.m. CPT.

4.2.2.1. Determination of Need To Adjust the Peaking Energy Schedule Submission Time

The Administrator, Southwestern, will make a determination on the need to adjust the Peaking Energy Schedule Submission Time based on Southwestern's studies involving financial analysis, regional energy

market conditions, and/or operational considerations.

4.2.2.2. Notification of Peaking Energy Schedule Submission Time Adjustment

The Administrator, Southwestern, will notify customers of the determination to adjust the Peaking Energy Schedule Submission Time in writing no later than 30 calendar days prior to the effective date of the Peaking Energy Schedule Submission Time adjustment.

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

RATE SCHEDULE NFTS–13A [1] **

WHOLESALE RATES FOR NON-FEDERAL TRANSMISSION/ INTERCONNECTION FACILITIES SERVICE

Effective: During the period October 1, 2013, through September 30, 2023,** in accordance with the Federal Energy Regulatory Commission (FERC) order issued in Docket No. EF14–1–000 (Jan. 9, 2014), modification approved by FERC in Docket No. EF14–1–001 (Mar. 9, 2017), extension approved by the Deputy Secretary in Docket No. EF14–1–002 (Sept. 13, 2017), extension approved by Assistant Secretary for Electricity in Rate Order No. 74 (Sept. 22, 2019), and extension approved by the Administrator in Rate Order No. 77 (August 30, 2021).

Available: In the region of the System of Southwestern.

Applicable: To Customers which have executed Service Agreements with Southwestern for the transmission of non-Federal power and energy over the System of Southwestern or for its use for interconnections. Southwestern will provide services over those portions of the System of Southwestern in which the Administrator, Southwestern, in his or her sole judgment, has determined that uncommitted transmission and transformation capacities in the System of Southwestern are and will be available in excess of the capacities required to market Federal power and energy pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 887,890; 16 U.S.C. 825s).

Character and Conditions of Service: Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage(s), at the point(s) specified by Service Agreement or Transmission Service Transaction.

1. Definitions of Terms

1.1. Ancillary Services

The services necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the System of Southwestern in accordance with good utility practice, which include the following:

1.1.1. Scheduling, System Control, and Dispatch Service

is provided by Southwestern as Balancing Authority Area operator and is in regard to interchange and load-match scheduling and related system control and dispatch functions.

1.1.2. Reactive Supply and Voltage Control From Generation Sources Service

is provided at transmission facilities in the System of Southwestern to produce or absorb reactive power and to maintain transmission voltages within specific limits.

1.1.3. Regulation and Frequency Response Service

is the continuous balancing of generation and interchange resources accomplished by raising or lowering the output of on-line generation as necessary to follow the moment-by-moment changes in load and to maintain frequency within a Balancing Authority Area.

1.1.4. Spinning Operating Reserve Service

maintains generating units on-line, but loaded at less than maximum output, which may be used to service load immediately when disturbance conditions are experienced due to a sudden loss of generation or load.

1.1.5. Supplemental Operating Reserve Service

provides an additional amount of operating reserve sufficient to reduce Area Control Error to zero within 10 minutes following loss of generating capacity which would result from the most severe single contingency.

1.1.6. Energy Imbalance Service

corrects for differences over a period of time between schedules and actual hourly deliveries of energy to a load. Energy delivered or received within the authorized bandwidth for this service is accounted for as an inadvertent flow and is returned to the providing party by the receiving party in accordance with standard utility practice or a contractual arrangement between the parties.

1.2. Customer

The entity which is utilizing and/or purchasing Federal Power and Federal Energy and services from Southwestern pursuant to this Rate Schedule.

1.3. Demand Period

The period of time used to determine maximum integrated rates of delivery for the purpose of power accounting which is the 60-minute period that begins with the change of hour.

1.4. Firm Point-to-Point Transmission Service

Transmission service reserved on a firm basis between specific points of receipt and delivery pursuant to either a Firm Transmission Service Agreement or to a Transmission Service Transaction.

1.5. Interconnection Facilities Service

A service that provides for the use of the System of Southwestern to deliver energy and/or provide system support at an interconnection.

1.6. Network Integration Transmission Service

Transmission service provided under Part III of Southwestern's Open Access Transmission Service Tariff which provides the Customer with firm transmission service for the delivery of capacity and energy from the Customer's resources to the Customer's load.

1.7. Non-Firm Point-to-Point Transmission Service

Transmission service reserved on a non-firm basis between specific points of receipt and delivery pursuant to a Transmission Service Transaction.

1.8. Point of Delivery

Either a single physical point to which electric power and energy are delivered from the System of Southwestern, or a specified set of delivery points which together form a single, electrically integrated load.

1.9. Secondary Transmission Service

Service that is associated with Firm Point-to-Point Transmission Service and Network Integration Transmission Service. For Firm Point-to-Point Transmission Service, it consists of transmission service provided on an as-available, non-firm basis, scheduled within the limits of a particular capacity reservation for transmission service, and scheduled from points of receipt, or to points of delivery, other than those

[1] Supersedes Rate Schedule NFTS–13.

** Extended through September 30, 2023, by approval of Rate Order No. SWPA–77 by the Administrator, Southwestern Power Administration.

designated in a Long-Term Firm Transmission Service Agreement or a Transmission Service Transaction for Firm Point-to-Point Transmission Service. For Network Integration Transmission Service, Secondary Transmission Service consists of transmission service provided on an as-available, non-firm basis, from resources other than the network resources designated in a Network Transmission Service Agreement, to meet the Customer's network load. The charges for Secondary Transmission Service, other than Ancillary Services, are included in the applicable capacity charges for Firm Point-to-Point Transmission Service and Network Integration Transmission Service.

1.10. Service Agreement

A contract executed between a Customer and Southwestern for the transmission of non-Federal power and energy over the System of Southwestern or for interconnections which include the following:

1.10.1. Firm Transmission Service Agreement

provides for reserved transmission capacity on a firm basis, for a particular point-to-point delivery path.

1.10.2. Interconnection Agreement

provides for the use of the System of Southwestern and recognizes the exchange of mutual benefits for such use or provides for application of a charge for Interconnection Facilities Service.

1.10.3. Network Transmission Service Agreement

provides for the Customer to request firm transmission service for the delivery of capacity and energy from the Customer's network resources to the Customer's network load, for a period of one year or more.

1.10.4. Non-Firm Transmission Service Agreement

provides for the Customer to request transmission service on a non-firm basis.

1.11. Service Request

The request made under a Transmission Service Agreement through the Southwest Power Pool, Inc. (hereinafter ''SPP'') Open Access Same-Time Information System (hereinafter ''OASIS'') for reservation of transmission capacity over a particular point-to-point delivery path for a particular period. The Customer must submit hourly schedules for actual service in addition to the Service Request.

1.12. System of Southwestern

The transmission and related facilities owned by Southwestern, and/or the generation, transmission, and related facilities owned by others, the capacity of which, by contract, is available to and utilized by Southwestern to satisfy its contractual obligations to the Customer.

1.13. Transmission Service Transaction

A Service Request that has been approved by SPP.

1.14. Uncontrollable Force

Any force which is not within the control of the party affected, including, but not limited to failure of water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, riot, civil disturbance, labor disturbance, sabotage, war, act of war, terrorist acts, or restraint by court of general jurisdiction, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

2. Wholesale Rates, Terms, and Conditions for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service, Network Integration Transmission Service, and Interconnection Facilities Service

2.1. Firm Point-to-Point Transmission Service Rates, Terms, and Conditions

2.1.1. Monthly Capacity Charge for Firm Point-to-Point Transmission Service

$1.48 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a longer term agreement.

2.1.2. Weekly Capacity Charge for Firm Point-to-Point Transmission Service

$0.370 per kilowatt of transmission capacity reserved in increments of one week of service.

2.1.3. Daily Capacity Charge for Firm Point-to-Point Transmission Service

$0.0673 per kilowatt of transmission capacity reserved in increments of one day of service.

2.1.4. Services Associated With Capacity Charge for Firm Point-to-Point Transmission Service

The capacity charge for Firm Point-to-Point Transmission Service includes Secondary Transmission Service, but does not include charges for Ancillary Services associated with actual schedules.

2.1.5. Applicability of Capacity Charge for Firm Point-to-Point Transmission Service

Capacity charges for Firm Point-to-Point Transmission Service are applied to quantities reserved by contract under a Firm Transmission Service Agreement or in accordance with a Transmission Service Transaction.

A Customer, unless otherwise specified by contract, will be assessed capacity charges on the greatest of (1) the highest metered demand at any particular Point of Delivery during a particular month, rounded up to the nearest whole megawatt, or (2) the highest metered demand recorded at such Point of Delivery during any of the previous 11 months, rounded up to the nearest whole megawatt, or (3) the capacity reserved by contract; which amount shall be considered such Customer's reserved capacity. Secondary Transmission Service for such Customer shall be limited during any month to the most recent metered demand on which that Customer is billed or to the capacity reserved by contract, whichever is greater.

2.2. Non-Firm Point-to-Point Transmission Service Rates, Terms, and Conditions

2.2.1. Monthly Capacity Charge for Non-Firm Point-to-Point Transmission Service

80 percent of the monthly capacity charge for Firm Point-to-Point Transmission Service reserved in increments of one month.

2.2.2. Weekly Capacity Charge for Non-Firm Point-to-Point Transmission Service

80 percent of the monthly capacity charge divided by 4 for Firm Point-to-Point Transmission Service reserved in increments of one week.

2.2.3. Daily Capacity Charge for Non-Firm Point-to-Point Transmission Service

80 percent of the monthly capacity charge divided by 22 for Firm Point-to-Point Transmission Service reserved in increments of one day.

2.2.4. Hourly Capacity Charge for Non-Firm Point-to-Point Transmission Service

80 percent of the monthly capacity charge divided by 352 for Firm Point-to-Point Transmission Service reserved in increments of one hour.

2.2.5. Applicability of Charges for Non-Firm Point-to-Point Transmission Service

Capacity charges for Non-Firm Point-to-Point Transmission Service are applied to quantities reserved under a Transmission Service Transaction, and do not include charges for Ancillary Services.

2.3. Network Integration Transmission Service Rates, Terms, and Conditions

2.3.1. Annual Revenue Requirement for Network Integration Transmission Service

$15,533,800.

2.3.2. Monthly Revenue Requirement for Network Integration Transmission Service

$1,294,483.

2.3.3. Net Capacity Available for Network Integration Transmission Service

872,000 kilowatts.

2.3.4. Monthly Capacity Charge for Network Integration Transmission Service

$1.48 per kilowatt of Network Load (charge derived from $1,294,483 ÷ 872,000 kilowatts).

2.3.5. Applicability of Charges for Network Integration Transmission Service

Network Integration Transmission Service is available only for deliveries of non-Federal power and energy, and is applied to the Customer utilizing such service exclusive of any deliveries of Federal power and energy. The capacity on which charges for any particular Customer utilizing this service is determined on the greatest of (1) the highest metered demand at any particular point of delivery during a particular month, rounded up to the nearest whole megawatt, or (2) the highest metered demand recorded at such point of delivery during any of the previous 11 months, rounded up to the nearest whole megawatt.

For a Customer taking Network Integration Transmission Service who is also taking delivery of Federal Power and Energy, the highest metered demand shall be determined by subtracting the energy scheduled for delivery of Federal Power and Energy for any hour from the metered demand for such hour.

Secondary transmission Service for a Customer shall be limited during any month to the most recent highest metered demand on which such Customer is billed. Charges for Ancillary Services shall also be assessed.

2.3.6. Procedure for Determining SPP Open Access Transmission Tariff Network Integration Transmission Service Annual Revenue Requirement

The SPP Open Access Transmission Tariff Network Integration Transmission Service Annual Revenue Requirement shall be based on the following formula which shall be calculated when a Customer transitions from a Service Agreement to an agreement for Network Integration Transmission Service under the SPP Open Access Transmission Tariff.

SPP NITS ARR = Southwestern's SPP Network Integration Transmission Service Annual Revenue Requirement, which is as follows:

(SPP NITS Capacity/Southwestern NITS Capacity) × Southwestern NITS ARR

with the factors defined as follows:

SPP NITS Capacity = The capacity on the System of Southwestern utilized for SPP Network Integration Transmission Service which shall be based on the currently approved Power Repayment Studies.

Southwestern NITS Capacity = Net Capacity Available for Network Integration Transmission Service on the System of Southwestern as specified in Section 2.3.3.

Southwestern NITS ARR = Southwestern's Annual Revenue Requirement for Network Integration Transmission Service as specified in Section 2.3.1.

2.4. Interconnection Facilities Service Rates, Terms, and Conditions

2.4.1. Monthly Capacity Charge for Interconnection Facilities Service

$1.48 per kilowatt.

2.4.2. Applicability of Capacity Charge for Interconnection Facilities Service

Any Customer that requests an interconnection from Southwestern which, in Southwestern's sole judgment and at its sole option, does not provide commensurate benefits or compensation to Southwestern for the use of its facilities shall be assessed a capacity charge for Interconnection Facilities Service. For any month, charges for Interconnection Facilities Service shall be assessed on the greater of (1) that month's actual highest metered demand, or (2) the highest metered demand recorded during the previous eleven months, as metered at the interconnection. The use of Interconnection Facilities Service will be subject to power factor provisions as specified in this Rate Schedule. The interconnection customer shall also schedule and deliver Real Power Losses pursuant to the provisions of this Rate Schedule based on metered flow through the interconnection where Interconnection Facilities Services is assessed.

2.5. Transformation Service Rates, Terms, and Conditions

2.5.1. Monthly Capacity Charge for Transformation Service

$0.46 per kilowatt will be assessed for capacity used to deliver energy at any point of delivery at which Southwestern provides transformation service for deliveries at voltages of 69 kilovolts or less from higher voltage facilities.

2.5.2. Applicability of Capacity Charge for Transformation Service

Unless otherwise specified by contract, for any particular month, a charge for transformation service will be assessed on the greater of (1) that month's highest metered demand, or (2) the highest metered demand recorded during the previous 11 months, at any point of delivery. For the purpose of this Rate Schedule, the highest metered demand will be based on all deliveries, of both Federal and non-Federal energy, from the System of Southwestern, at such point during such month.

2.6. Ancillary Services Rates, Terms, and Conditions

2.6.1. Capacity Charges for Ancillary Services

2.6.1.1. Scheduling, System Control, and Dispatch Service

Monthly rate of $0.09 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Service Agreement or Network Transmission Service Agreement.

Weekly rate of $0.023 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily rate of $0.0041 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly rate of $0.00026 per kilowatt of transmission energy delivered as non-firm transmission service.

2.6.1.2. Reactive Supply and Voltage Control From Generation Sources Service

Monthly rate of $0.04 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Service Agreement or Network Transmission Service Agreement.

Weekly rate of $0.010 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily rate of $0.0018 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly rate of $0.00011 per kilowatt of transmission energy delivered as non-firm transmission service.

2.6.1.3. Regulation and Frequency Response Service

Monthly rate of $0.07 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Service Agreement or Network Transmission Service Agreement plus the Regulation Purchased Adder as defined in Section 2.6.5 of this Rate Schedule.

Weekly rate of $0.018 per kilowatt of transmission capacity reserved in increments of one week of service plus the Regulation Purchased Adder as defined in Section 2.6.5 of this Rate Schedule.

Daily rate of $0.0032 per kilowatt of transmission capacity reserved in increments of one day of service plus the Regulation Purchased Adder as defined in Section 2.6.5 of this Rate Schedule.

Hourly rate of $0.00020 per kilowatt of transmission energy delivered as non-firm transmission service plus the Regulation Purchased Adder as defined in Section 2.6.5 of this Rate Schedule.

2.6.1.4. Spinning Operating Reserve Service

Monthly rate of $0.0146 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Service Agreement or Network Transmission Service Agreement.

Weekly rate of $0.00365 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily rate of $0.00066 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly rate of $0.00004 per kilowatt of transmission energy delivered as non-firm transmission service.

2.6.1.5. Supplemental Operating Reserve Service

Monthly rate of $0.0146 per kilowatt of transmission capacity reserved in increments of one month of service or invoiced in accordance with a Long-Term Firm Transmission Service Agreement or Network Transmission Service Agreement.

Weekly rate of $0.00365 per kilowatt of transmission capacity reserved in increments of one week of service.

Daily rate of $0.00066 per kilowatt of transmission capacity reserved in increments of one day of service.

Hourly rate of $0.00004 per kilowatt of transmission energy delivered as non-firm transmission service.

2.6.1.6. Energy Imbalance Service

$0.0 per kilowatt for all reservation periods.

2.6.2. Availability of Ancillary Services

Scheduling, System Control, and Dispatch Service and Reactive Supply and Voltage Control from Generation Sources Service are available for all transmission services in and from the System of Southwestern and shall be provided by Southwestern. Regulation and Frequency Response Service and Energy Imbalance Service are available only for deliveries of power and energy to load within Southwestern's Balancing Authority Area, and shall be provided by Southwestern, unless, subject to Southwestern's approval, they are provided by others. Spinning Operating Reserve Service and Supplemental Operating Reserve Service are available only for deliveries of power and energy generated by resources located within Southwestern's Balancing Authority Area and shall be provided by Southwestern, unless, subject to Southwestern's approval, they are provided by others.

2.6.3. Applicability of Charges for Ancillary Services

Charges for all Ancillary Services are applied to the transmission capacity reserved or network transmission service taken by the Customer in accordance with the rates listed above when such services are provided by Southwestern.

The charges for Ancillary Services are considered to include Ancillary Services for any Secondary Transmission Service, except in cases where Ancillary Services identified in Sections 2.6.1.3 through 2.6.1.6 of this Rate Schedule are applicable to a Transmission Service Transaction of Secondary Transmission Service, but are not applicable to the transmission capacity reserved under which Secondary Transmission Service is provided. When charges for Ancillary Services are applicable to Secondary Transmission Service, the charge for the Ancillary Service shall be the hourly rate applied to all energy transmitted utilizing the Secondary Transmission Service.

2.6.4. Provision of Ancillary Services by Others

Customers for which Ancillary Services identified in Sections 2.6.1.3 through 2.6.1.6 of this Rate Schedule are made available as specified above must inform Southwestern by written notice of the Ancillary Services which they do not intend to take and purchase from Southwestern, and of their election to provide all or part of such Ancillary Services from their own resources or from a third party. Such notice requirements also apply to requests for Southwestern to provide Ancillary Services when such services are available as specified above.

Subject to Southwestern's approval of the ability of such resources or third parties to meet Southwestern's technical and operational requirements for provision of such Ancillary Services, the Customer may change the Ancillary Services which it takes from Southwestern and/or from other sources at the beginning of any month upon the greater of 60 days written notice or upon the completion of any necessary equipment modifications necessary to accommodate such change; Provided, That, if the Customer chooses not to take Regulation and Frequency Response Service, which includes the associated Regulation Purchased Adder, the Customer must pursue these services from a different host Balancing Authority; thereby moving all metered loads and resources from Southwestern's Balancing Authority Area to the Balancing Authority Area of the new host Balancing Authority. Until such time as that meter reconfiguration is accomplished, the Customer will be charged for the Regulation and Frequency Response Service and applicable Adder then in effect. The Customer must notify Southwestern by July 1 of this choice, to be effective the subsequent calendar year.

2.6.5. Regulation Purchased Adder

Southwestern has determined the amount of energy used from storage to provide Regulation and Frequency Response Service in order to meet Southwestern's Balancing Authority Area requirements. The replacement value of such energy used shall be recovered through the Regulation Purchased Adder. The Regulation Purchased Adder during the time period of January 1 through December 31 of the current calendar year is based on the average annual use of energy from storage [1] for Regulation and Frequency

[1] The average annual use of energy from storage for Regulation and Frequency Response Service is based on Southwestern studies.

Response Service and Southwestern's estimated purchased power price for the corresponding year from the most currently approved Power Repayment Studies.

The Regulation Purchased Adder will be phased in over a period of four (4) years as follows:

Year	Regulation Purchased Adder for the incremental replacement value of energy used from storage
2014	¼ of the average annual use of energy from storage × 2014 Purchased Power price.
2015	½ of the average annual use of energy from storage × 2015 Purchased Power price.
2016	¾ of the average annual use of energy from storage × 2016 Purchased Power price.
2017 and thereafter	The total average annual use of energy from storage × the applicable Purchased Power price.

2.6.5.1. Applicability of Regulation Purchased Adder

The replacement value of the estimated annual use of energy from storage for Regulation and Frequency Response Service shall be recovered by Customers located within Southwestern's Balancing Authority Area on a non-coincident peak ratio share basis, divided into twelve equal monthly payments, in accordance with the formula in Section 2.6.5.2.

If the Regulation Purchased Adder is determined and applied under Southwestern's Rate Schedule P–13, then it shall not be applied here.

2.6.5.2. Procedure for Determining Regulation Purchased Adder

Unless otherwise specified by contract, the Regulation Purchased Adder for an individual Customer shall be based on the following formula rate, calculated to include the replacement value of the estimated annual use of energy from storage by Southwestern for Regulation and Frequency Response Service.

RPA = The Regulation Purchased Adder for an individual Customer per month, which is as follows:

$[(L_{Customer} \div L\ Total) \times RP_{Total}] \div 12$

with the factors defined as follows:

$L_{Customer}$ = The sum in MW of the following three factors:

(1) The Customer's highest metered load plus generation used to serve the Customer's load that is accounted for through a reduction in the Customer's metered load (referred to as 'generation behind the meter') during the previous calendar year, and

(2) The Customer's highest rate of Scheduled Exports [2] during the previous calendar year, and

(3) The Customer's highest rate of Scheduled Imports [2] during the previous calendar year.

L_{Total} = The sum of all L Customer factors for all Customers that were inside Southwestern's Balancing Authority Area at the beginning of the previous calendar year in MW.

RP_{Total} = The ''net'' cost in dollars and cents based on Southwestern's estimated purchased power price for the corresponding year from the most currently approved Power Repayment Studies multiplied by the average annual use of energy from storage, as provided for in the table in Section 2.6.5, to support Southwestern's ability to regulate within its Balancing Authority Area. The ''net'' cost in dollars and cents shall be adjusted by subtracting the product of the quantity of such average annual use of energy from storage in MWh and Southwestern's highest rate in dollars per MWh for Supplemental Peaking Energy during the previous calendar year.

For Customers that have aggregated their load, resources, and scheduling into a single node by contract within Southwestern's Balancing Authority Area, the individual Customer's respective Regulation Purchased Adder shall be that Customer's ratio share of the Regulation Purchased Adder established for the node. Such ratio share shall be determined for the Customer on a non-coincident basis and shall be calculated for the Customer from their highest metered load plus generation behind the meter.

2.6.6. Energy Imbalance Service Limitations

Energy Imbalance Service is authorized for use only within a bandwidth of □1.5 percent of the actual requirements of the load at a particular point of delivery, for any hour, compared to the resources scheduled to meet such load during such hour. Deviations which are greater than □1.5 percent, but which are less than □2,000 kilowatts, are considered to be within the authorized bandwidth. Deviations outside the authorized bandwidth are subject to a Capacity Overrun Penalty.

Energy delivered or received within the authorized bandwidth for this service is accounted for as an inadvertent flow and will be netted against flows in the future. The inadvertent flow in any given hour will only be offset with the flows in the corresponding hour of a day in the same category. Unless otherwise specified by contract, the two categories of days are weekdays and weekend days/North American Electric Reliability Corporation holidays, and this process will result in a separate inadvertent accumulation for each hour of the two categories of days. The hourly accumulations in the current month will be added to the hourly inadvertent balances from the previous month, resulting in a month-end balance for each hour.

The Customer is required to adjust the scheduling of resources in such a way as to reduce the accumulation towards zero. It is recognized that the inadvertent hourly flows can be both negative and positive, and that offsetting flows should deter a significant accumulation of inadvertent. Unless otherwise specified by contract, in the event any hourly month-end balance exceeds 12 MWhs, the excess will be subject to Section 3.1 or Section 3.2 of this Rate Schedule, depending on the direction of the accumulation.

3. Non-Federal Transmission/ Interconnection Facilities Service Penalties, Terms, and Conditions

3.1. Capacity Overrun Penalty

3.1.1. Penalty Charge for Capacity Overrun

For each hour during which energy flows outside the authorized bandwidth, the Customer will be obliged to purchase such energy at the following rates:

Months associated with charge	Rate per kilowatt
March, April, May, October, November, December	$0.15

[2] Scheduled Exports and Scheduled Imports are transactions, such as sales and purchases respectively, which are in addition to a Customer's metered load that contribute to Southwestern's Balancing Authority Area need for regulation.

Months associated with charge	Rate per kilowatt
January, February, June, July, August, September	0.30

3.1.2. Applicability of Capacity Overrun Penalty

Customers who receive deliveries within Southwestern's Balancing Authority Area are obligated to provide resources sufficient to meet their loads. Such obligation is not related to the amount of transmission capacity that such Customers may have reserved for transmission service to a particular load. In the event that a Customer underschedules its resources to serve its load, resulting in a difference between resources and actual metered load (adjusted for transformer losses as applicable) outside the authorized bandwidth for Energy Imbalance Service for any hour, then such Customer is subject to the Capacity Overrun Penalty.

3.2. Unauthorized Use of Energy Imbalance Service by Overscheduling of Resources

In the event that a Customer schedules greater resources than are needed to serve its load, such that energy flows at rates beyond the authorized bandwidth for the use of Energy Imbalance Service, Southwestern retains such energy at no cost to Southwestern and with no obligation to return such energy.

3.3. Power Factor Penalty

3.3.1. Requirements Related to Power Factor

Any Customer served from facilities owned by or available by contract to Southwestern will be required to maintain a power factor of not less than 95 percent and will be subject to the following provisions.

3.3.2. Determination of Power Factor

The power factor will be determined for all Demand Periods and shall be calculated under the formula:

$$PF = (kWh) \div \sqrt{(kWh^2 + rkVAh^2)}$$

with the factors defined as follows:

PF = The power factor for any Demand Period of the month.

kWh = The total quantity of energy which is delivered during such Demand Period to the point of delivery or interconnection in accordance with Section 3.3.4.

rkVAh = The total quantity of reactive kilovolt-ampere-hours (kVARs) delivered during such Demand Period to the point of delivery or interconnection in accordance with Section 3.3.4.

3.3.3. Penalty Charge for Power Factor

The Customer shall be assessed a penalty for all Demand Periods of a month where the power factor is less than 95 percent lagging. For any Demand Period during a particular month such penalty shall be in accordance with the following formula:

$$C = D \times (0.95 - LPF) \times \$0.10$$

with the factors defined as follows:

C = The charge in dollars to be assessed for any particular Demand Period of such month that the determination of power factor ''PF'' is calculated to be less than 95 percent lagging.

D = The Customer's demand in kilowatts at the point of delivery for such Demand Period in which a low power factor was calculated.

LPF = The lagging power factor, if any, determined by the formula ''PF'' for such Demand Period.

If C is negative, then C = zero (0).

3.3.4. Applicability of Power Factor Penalty

The Power Factor Penalty is applicable to radial interconnections with the System of Southwestern. The total Power Factor Penalty for any month shall be the sum of all charges ''C'' for all Demand Periods of such month. No penalty is assessed for leading power factor. Southwestern, in its sole judgment and at its sole option, may determine whether power factor calculations should be applied to (i) a single physical point of delivery, (ii) a combination of physical points of delivery where a Customer has a single, electrically integrated load, (iii) or interconnections. The general criteria for such decision shall be that, given the configuration of the Customer's and Southwestern's systems, Southwestern will determine, in its sole judgment and at its sole option, whether the power factor calculation more accurately assesses the detrimental impact on Southwestern's system when the above formula is calculated for a single physical point of delivery, a combination of physical points of delivery, or for an interconnection as specified by an Interconnection Agreement.

Southwestern, at its sole option, may reduce or waive Power Factor Penalties when, in Southwestern's sole judgment, low power factor conditions were not detrimental to the System of Southwestern due to particular loading and voltage conditions at the time the power factor dropped below 95 percent lagging.

4. Non-Federal Transmission/ Interconnection Facilities Service Miscellaneous Rates, Terms, and Conditions

4.1. Real Power Losses

Customers are required to self-provide all Real Power Losses for non-Federal energy transmitted by Southwestern on behalf of such Customers under the provisions detailed below.

Real Power Losses are computed as four (4) percent of the total amount of non-Federal energy transmitted by Southwestern. The Customer's monthly Real Power Losses are computed each month on a megawatthour basis as follows:

$$ML = 0.04 \times NFE$$

with the factors defined as follows:

ML = The total monthly loss energy, rounded to the nearest megawatthour, to be scheduled by a Customer for receipt by Southwestern for Real Power Losses associated with non-Federal energy transmitted on behalf of such Customer; and

NFE = The amount of non-Federal energy that was transmitted by Southwestern on behalf of a Customer during a particular month.

The Customer must schedule or cause to be scheduled to Southwestern, Real Power Losses for which it is responsible subject to the following conditions:

4.1.1. The Customer shall schedule and deliver Real Power Losses back to Southwestern during the second month after they were incurred by Southwestern in the transmission of the Customer's non-Federal power and energy over the System of Southwestern unless such Customer has accounted for Real Power Losses as part of a metering arrangement with Southwestern.

4.1.2. On or before the twentieth day of each month, Southwestern shall determine the amount of non-Federal loss energy it provided on behalf of the Customer during the previous month and provide a written schedule to the Customer setting forth hour-by-hour the quantities of non-Federal energy to be delivered to Southwestern as losses during the next month.

4.1.3. Real Power Losses not delivered to Southwestern by the Customer, according to the schedule provided, during the month in which such losses

are due shall be billed by Southwestern to the Customer to adjust the end-of-month loss energy balance to zero (0) megawatthours and the Customer shall be obliged to purchase such energy at the following rates:

Months associated with charge	Rate per kilowatthour
March, April, May, October, November, December	$0.15
January, February, June, July, August, September	0.30

4.1.4. Real Power Losses delivered to Southwestern by the Customer in excess of the losses due during the month shall be purchased by Southwestern from the Customer at a rate per megawatthour equal to Southwestern's rate per megawatthour for Supplemental Peaking Energy, as set forth in Southwestern's then-effective Rate Schedule for Hydro Peaking Power to adjust such hourly end-of-month loss energy balance to zero (0) megawatthours.

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

RATE SCHEDULE EE–13 [1] **

WHOLESALE RATES FOR EXCESS ENERGY

Effective: During the period October 1, 2013, through September 30, 2021,** in accordance with the Federal Energy Regulatory Commission (FERC) order issued in Docket No. EF14–1–000 (Jan. 9, 2014), extension approved by the Deputy Secretary in Docket No. EF14–1–002 (Sept. 13, 2017), extension approved by Assistant Secretary for Electricity in Rate Order No. 74 (Sept. 22, 2019), and extension approved by the Administrator in Rate Order No. 77 (August 30, 2021).

Available: In the marketing area of Southwestern Power Administration (Southwestern), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable: To electric utilities which, by contract, may purchase Excess Energy from Southwestern.

Character and Conditions of Service: Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage(s) and at the point(s) of delivery specified by contract.

1. Wholesale Rates, Terms, and Conditions for Excess Energy

Excess Energy will be furnished at such times and in such amounts as Southwestern determines to be available.

1.2. Transmission and Related Ancillary Services

Transmission service for the delivery of Excess Energy shall be the sole responsibility of such customer purchasing Excess Energy.

1.3. Excess Energy Charge

$0.0094 per kilowatthour of Excess Energy delivered.

[FR Doc. 2021–19718 Filed 9–13–21; 8:45 am]

BILLING CODE 6450–01–P

[1] Supersedes Rate Schedule EE–11.

** Extended through September 30, 2023, by approval of Rate Order No. SWPA–77 by the Administrator, Southwestern Power Administration.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2021–0547; FRL–5601.5–01–OW]

RIN 2040–ZA38

Preliminary Effluent Guidelines Program Plan 15

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the U.S. Environmental Protection Agency's (EPA) Preliminary Effluent Guidelines Program Plan 15 (Preliminary Plan 15) and solicits public comment. The Clean Water Act (CWA) requires the EPA to biennially publish a plan for new and revised effluent limitations guidelines, after public review and comment. Preliminary Plan 15 discusses EPA's 2020 annual review of effluent limitations guidelines and pretreatment standards, presents the agency's preliminary review of specific categories identified through the review, provides an update on the analyses and tools that EPA is continuing to develop, and discusses several new and ongoing rulemaking actions.

DATES: Comments must be received on or before October 14, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2021–0547, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI and multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Dr. Phillip Flanders, Engineering and Analysis Division, Office of Water, 4303T, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–8323; fax number: (202) 566–1053; email address: *flanders.phillip@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Supporting Documents

A key document providing additional information is the *Preliminary Effluent Guidelines Program Plan 15* document. Supporting documents providing further details are also available for review.

B. How can I get copies of these documents and other related information?

1. Docket. The EPA has established an official public docket for these actions under Docket ID No. EPA–HQ–OW–2021–0547. The official public docket is the collection of materials that are available for public viewing at the Water

Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460.

2. Electronic Access. You can access this **Federal Register** document electronically through the United States Government online source for Federal regulations at *http://www.regulations.gov.*

3. Internet access. Copies of the supporting documents are available at *http://www.epa.gov/eg/effluent-guidelines-plan.*

II. How is this document organized?

The outline of this document follows.

A. Legal Authority.

B. Summary of Preliminary Effluent Guidelines Program Plan 15.

C. Request for Public Comments and Information.

A. Legal Authority

This notice is published under the authority of the CWA, 33 U.S.C. 1251, *et seq.,* and in particular sections 301(d), 304(b), 304(g), 304(m), 306, 307(b) and 308 of the Act, 33 U.S.C. 1311(d), 1314(b), 1314(g), 1314(m), 1316, 1317(b), and 1318.

B. Summary of Preliminary Effluent Guidelines Program Plan 15

EPA prepares Preliminary Effluent Guidelines Program Plans pursuant to CWA section 304(m). Preliminary plans provide a summary of the EPA's annual review of effluent limitations guidelines and pretreatment standards, consistent with CWA sections 301(d), 304(b), 304(g), 304(m), and 307(b). From these reviews, preliminary plans identify any new or existing industrial categories selected for effluent limitations guidelines or pretreatment standards rulemakings and provide a schedule for such rulemakings. In addition, preliminary plans present any new or existing categories of industry selected for further review and analysis.

Preliminary Plan 15 discusses EPA's 2020 annual review of effluent limitations guidelines and pretreatment standards, presents its preliminary review of specific categories identified through the review, provides an update on the analyses and tools that EPA is continuing to develop, and discusses several new and ongoing rulemaking actions.

EPA is initiating three new rulemakings after concluding several studies that were discussed in Plan 14. After several years of collecting and analyzing data, EPA has concluded that revision of the following effluent limitations guidelines or pretreatment standards are warranted:

1. Meat and Poultry Products point-source category to address nutrient discharges (see Section 6.2 of the preliminary plan for additional details)
2. Organic Chemicals, Plastics & Synthetic Fibers point-source category to address Per- and Polyfluoroalkyl Substances (PFAS) discharges (see Section 6.4 of the preliminary plan for additional details)
3. Metal Finishing point-source category to address PFAS discharges (see Section 6.4 of the preliminary plan for additional details)

Preliminary Plan 15 also discusses the Steam Electric Generating category rulemaking that the agency announced on July 26, 2020. At that time, EPA announced that the agency was initiating a rulemaking process to strengthen certain wastewater pollution discharge limits for coal power plants that use steam to generate electricity. See Section 7.1 of the preliminary plan for additional details.

Finally, Preliminary Plan 15 provides updates on ongoing point source category studies of the electrical and electronic components category and the Multi-Industry PFAS study and explains the agency's intention to take no further action on oil and gas extraction wastewater management. It also discusses the initial results from EPA's review for the metal products and machinery, explosives manufacturing, canned and preserved seafood, sugar processing, soap and detergent manufacturing, and landfill point source categories.

Preliminary Plan 15 can be found at *http://www.epa.gov/eg/effluent-guidelines-plan.*

C. Request for Public Comments and Information

EPA requests comments and information on the overall content of Preliminary Plan 15. In particular, EPA requests comments on the announcements regarding ongoing studies and rulemaking activities (see Sections 6 and 7 of the plan for additional details), and the topics below. See Preliminary Plan 15 for more information on these issues.

1. Reviews of Industrial Wastewater Discharges and Treatment Technologies.

EPA solicits feedback on the cross-category rankings analysis. To the extent that any comment advocates for a revision to existing effluent limitations guidelines (ELGs), the commenter should explain why EPA should prioritize these point source categories ahead of the ones that EPA is studying and revising.

2. Membrane Wastewater Treatment Technology.

EPA solicits comment on the capabilities, performance, and costs of membrane treatment technologies for industrial wastewater to support the membrane technology review.

3. Environmental Justice.

EPA solicits comment on how best to incorporate environmental justice into the ELG planning process.

4. PFAS Multi-Industry Study.

EPA solicits feedback on the findings of the Multi-Industry PFAS study, specifically findings from the pulp and paper manufacturers and commercial airports.

Radhika Fox,

Assistant Administrator.

[FR Doc. 2021–19787 Filed 9–13–21; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Sunshine Act Meetings; Notice of Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (EXIM)

TIME AND DATE: Thursday, September 30th, 2021 from 2:00–4:30 p.m. EDT.

PLACE: The meeting will be held virtually.

STATUS: Public Participation: The meeting will be open to public participation and time will be allotted for questions or comments submitted online. Members of the public may also file written statements before or after the meeting to *external@exim.gov.* Interested parties may register here for the meeting.

MATTERS TO BE CONSIDERED: Discussion of EXIM policies and programs to provide competitive financing to expand United States exports and comments for inclusion in EXIM's Report to the U.S. Congress on Global Export Credit Competition.

CONTACT PERSON FOR MORE INFORMATION: For further information, contact India Walker, External Enagagement Specialist, at 202–480–0062.

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2021–19931 Filed 9–10–21; 4:15 pm]

BILLING CODE 6690–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–0020; Docket No. CDC–2021–0095]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Coal Workers' Health Surveillance Program (CWHSP). The CWHSP is a Congressionally mandated medical examination program for monitoring the health of coal miners and was originally established under the Federal Coal Mine Health and Safety Act of 1969 with all subsequent amendments (the Act). HHS proposes to revise the National Institute for Occupational Safety and Health (NIOSH) CWHSP regulations by amending existing regulatory text to allow compensation for pathologists who perform autopsies on coal miners at a market rate, on a discretionary basis as needed for public health purposes.

DATES: CDC must receive written comments on or before November 15, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0095 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all Federal comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Coal Workers' Health Surveillance Program (CWHSP), (OMB Control No. 0920–0020, Exp. 09/30/2021)—Revision—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH would like to submit a Revision Information Collection Request (ICR) to revise the data collection instruments being utilized within the Coal Workers' Health Surveillance Program (CWHSP). This request incorporates all components of the CWHSP. Those components include: Coal Workers' X-ray Surveillance Program (CWXSP), B Reader Program, Enhanced Coal Workers' Health Surveillance Program (ECWHSP), Expanded Coal Workers' Health Surveillance Program, and National Coal Workers' Autopsy Study (NCWAS). The CWHSP is a Congressionally mandated medical examination program for monitoring the health of coal miners and was originally established under the Federal Coal Mine Health and Safety Act of 1969 with all subsequent amendments (the Act). The Act provides the regulatory authority for the administration of the CWHSP. This Program, which operates in accordance with 42 CFR part 37, is useful in providing information for protecting the health, and also in documenting trends and patterns in the prevalence of coal workers' pneumoconiosis ('black lung' disease) among U.S. coal miners.

HHS proposes to revise the CWHSP regulations (42 CFR part 37) by amending existing regulatory text to allow compensation for pathologists who perform autopsies on coal miners at a market rate, on a discretionary basis as needed for public health purposes. These changes to 42 CFR 37 have necessitated this revision ICR.

The total estimated annualized burden hours of 11,741 is based on the following collection instruments:

- Coal Mine Operator Plan (2.10) and Coal Contractor Plan (2.18)—Under 42 CFR part 37, every coal operator and coal contractor in the U.S. must submit a plan approximately every four years, providing information on how they plan to notify their miners of the opportunity to obtain the medical examination. Completion of this form with all requested information (including a roster of current employees) takes approximately 30 minutes.
- Radiographic Facility Certification Document (2.11)—X-ray facilities seeking NIOSH approval to provide miner radiographs under the CWHSP must complete an approval packet including this form which requires approximately 30 minutes for completion.
- Miner Identification Document (2.9)—Miners who elect to participate in the CWHSP must fill out this document which requires approximately 20

minutes. This document records demographic and occupational history, as well as information required under the regulations in relation to the examinations.

• Chest Radiograph Classification Form (2.8)—NIOSH utilizes a radiographic classification system developed by the International Labour Office (ILO) in the determination of pneumoconiosis among coal miners. Physicians (B Readers) fill out this form regarding their interpretations of the radiographs (each image has at least two separate interpretations, and approximately 7% of the images require additional interpretations). Based on prior practice it takes the physician approximately three minutes per form.

• Physician Application for Certification (2.12)—Physicians taking the B Reader examination are asked to complete this registration form which provides demographic information as well as information regarding their medical practices. It typically takes the physician about 10 minutes to complete this form.

• Spirometry Facility Certification Document (2.14)—This form is analogous to the Radiographic Facility Certification Document (2.11) and records the spirometry facility equipment/staffing information. Spirometry facilities seeking NIOSH approval to provide miner spirometry testing under the CWHSP must complete an approval packet which includes this form. It is estimated that it will take approximately 30 minutes for this form to be completed at the facility.

• Respiratory Assessment Form (2.13)—This form is designed to assess respiratory symptoms and certain medical conditions and risk factors. It is estimated that it will take approximately five minutes for this form to be administered to the miner by an employee at the facility.

• Spirometry Results Notification Form (2.15)—This form is used to: Collect information that will allow NIOSH to identify the miner in order to provide notification of the spirometry test results; assure that the test can be done safely; record certain factors that can affect test results; provide documentation that the required components of the spirometry examination have been transmitted to NIOSH for processing; and conduct quality assurance audits and interpretation of results. It is estimated that it will take the facility approximately 20 minutes to complete this form.

• Pathologist Invoice—Under the NCWAS, the invoice submitted by the pathologist must contain a statement that the pathologist is not receiving any other compensation for the autopsy. Each participating pathologist may use their individual invoice as long as this statement is added. It is estimated that only five minutes is required for the pathologist to add this statement to the standard invoice that they routinely use.

• Pathologist Report—Under the NCWAS the pathologist must submit information found at autopsy, slides, blocks of tissue, and a final diagnosis indicating presence or absence of pneumoconiosis. The format of the autopsy reports is variable depending on the pathologist conducting the autopsy. Since an autopsy report is routinely completed by a pathologist, the only additional burden is the specific request for a clinical abstract of terminal illness and final diagnosis relating to pneumoconiosis. Therefore, only five minutes of additional burden is estimated for the pathologist's report.

• Consent, Release and History Form (2.6)—This form documents written authorization from the next-of-kin to perform an autopsy on the deceased miner. A minimum of essential information is collected regarding the deceased miner including an occupational history and a smoking history. From past experience, it is estimated that 15 minutes is required for the next-of-kin to complete this form.

• Authorization for Payment of Autopsy Form (2.19)—Revised 42 CFR part 37.204 outlines a need for a physician pathologist to obtain written authorization from NIOSH and agreement regarding payment amount for services specified in § 37.202 (a) by completing the Authorization for Payment of Autopsy form and submitting it to the CWHSP for authorization prior to completing an autopsy on a coal miner. This is a new form. It will be completed by the pathologist who intends on conducting an autopsy and the form will collect: Demographic information on the deceased miner, characteristics of the miner's pneumoconiosis (if known by the pathologist), demographic and medical licensure information from the requesting pathologist, and proposed payment amount to complete the autopsy in accordance with § 37.203. It is estimated that 15 minutes is required for the pathologist to complete this form.

CDC requests OMB approval for an estimated 11,741 annual burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of Respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Coal Mine Operator	2.10	220	1	30/60	110
Coal Mine Contractor	2.18	160	1	30/60	80
Radiograph Facility Supervisor	2.11	20	1	30/60	10
Coal Miner	2.9	8,500	1	20/60	2833
Coal Miner—Radiograph	No form required	8,500	1	15/60	2125
B Reader Physician	2.8	10	1,760	3/60	880
Physicians taking the B Reader Examination.	2.12	220	1	10/60	37
Spirometry Facility Supervisor	2.14	15	1	30/60	8
Spirometry Facility Employee	2.13	8,500	1	5/60	708
Spirometry Technician	2.15	8,500	1	20/60	2833
Coal Miner—Spirometry	No form required	8,500	1	15/60	2125
Pathologist	2.19	4	1	15/60	1
Pathologist	Invoice—No standard form	4	1	5/60	1
Pathologist	Pathology Report—No standard form.	4	1	5/60	1
Next-of-kin for deceased miner	2.6	4	1	15/60	1

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of Respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Total					11,741

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–19753 Filed 9–13–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–21–1039]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Information Collection on Cause-Specific Absenteeism in Schools to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on March 1, 2021 to obtain comments from the public and affected agencies. CDC received and replied to two non-substantive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Information Collection on Cause-Specific Absenteeism in Schools (OMB Control No. 0920–1039)—Reinstatement with Change—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Information Collection on Cause-Specific Absenteeism in Schools aims to improve; (1) understanding of the role of influenza-like illness (ILI)-specific absenteeism in schools in predicting community-wide influenza transmission, and (2) to detect within-household transmission of influenza in households from which a student has been absent from school due to ILI.

Due to children's naïve immunity, their susceptibility to infectious diseases, and congregation of children at schools, schools serve as amplification points for influenza transmission. Therefore, the collection of ILI-specific absenteeism could provide information needed to detect influenza outbreaks early, before infection spreads to a wider community. Such early detection of outbreaks will enable public health and school authorities to implement appropriate infection control and prevention measures.

School children are frequently the main introducers of influenza to their families. Evaluating influenza transmission within households where students are absent from school because of ILI may serve as an additional layer of influenza surveillance, and could contribute to understanding of influenza transmission dynamics within the surrounding community. Insights gained from this information collection will be used to strengthen the evidence-base of CDC's Pre-Pandemic Guidance prior to the next pandemic.

Since obtaining OMB approval in December 2014, 2,466 Oregon School District students with ILI have been enrolled in the study. Of them, 68% were positive for at least one respiratory pathogen included in the PCR panel that tests for presence of 17 common respiratory viruses, and 29% of students were found to be positive for influenza. It was demonstrated that absenteeism due to ILI in school children was highly correlated with PCR-confirmed influenza in enrolled school children, and medically-attended influenza in the surrounding community, suggesting that ILI-specific school absenteeism can be considered a useful tool for predicting influenza outbreaks in the surrounding community. For all six seasons, (2015–2021) significant, positive cross-correlations were achieved for absenteeism due to illness (a–I) and absenteeism due to ILI (a–ILI) at least 14 days in advance of MAI. Further observations during influenza seasons caused by other influenza strains are needed to make these findings more robust.

In the currently approved information collection, information and biospecimens are collected only from students who were absent from school because of ILI. This reinstatement with change to the currently approved information collection adds a household transmission component, in which information and biospecimens will be collected from household members of students absent from school because of ILI. This aims to enhance current knowledge and understanding around

the introduction of influenza infection to households that have school-age children, as well as within-household influenza transmission.

CDC requests approval for 434 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Parents of children/adolescents or adult students (≥18 yo) attending schools.	Screening Form	345	1	5/60
	Acute Respiratory Infection and Influenza Surveillance Form.	300	1	15/60
	Household Study Form A	300	1	5/60
Student	Biospecimen collection (Day 0)	300	1	5/60
Parents of children/adolescents or adult students (≥18 yo) attending schools.	Household Study Form B (Day 7 and 14)	240	1	5/60
Student	Biospecimen collection (Day 7 and 14)	240	1	5/60
Household members	Household Study Form B (Day 0, 7 and 14)	720	2	5/60
Household members	Biospecimen collection (Day 0, 7 and 14)	720	2	5/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–19754 Filed 9–13–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Biodefense Science Board

AGENCY: Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The National Biodefense Science Board (NBSB or the Board) is authorized under Section 319M of the Public Health Service (PHS) Act, as added by Section 402 of the Pandemic and All-Hazards Preparedness Act of 2006 and amended by Section 404 of the Pandemic and All-Hazards Preparedness Reauthorization Act. The Board is governed by the Federal Advisory Committee Act, which sets forth standards for the formation and use of advisory committees. The NBSB provides expert advice and guidance on scientific, technical, and other matters of special interest to the Department regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

DATES: The NBSB will meet in public (virtually) on September 28, 2021, to discuss high priority issues related to national public health emergency preparedness and response. A more detailed agenda will be available on the NBSB meeting website *https://www.phe.gov/nbsb.*

ADDRESSES: Members of the public may attend the meeting via a toll-free phone number or Zoom teleconference, which requires pre-registration. The meeting link to pre-register will be posted on *https://www.phe.gov/nbsb.* Members of the public may provide written comments or submit questions for consideration by the NBSB at any time via email to *NBSB@hhs.gov.* Members of the public are also encouraged to provide comments after the meeting.

FOR FURTHER INFORMATION CONTACT: CAPT Christopher L. Perdue, MD, MPH, NBSB Designated Federal Officer, Washington, DC, Office, 202–401–5837, *NBSB@hhs.gov.*

SUPPLEMENTARY INFORMATION: The NBSB invites those who are involved in or represent a relevant industry, academia, health profession, health care consumer organization, or state, Tribal, territorial or local government to request up to seven minutes to address the board in person via Zoom. Requests to provide remarks to the NBSB during the public meeting must be sent to *NBSB@hhs.gov* at least 15 days prior to the meeting along with a brief description of the topic. We would specifically like to request inputs from the public on challenges, opportunities, and strategic priorities for national health security and biodefense. Presenters who are selected for the public meeting will have audio only during the meeting. Slides, documents, and other presentation material sent along with the request to speak will be provided to the board members separately. Please indicate additionally whether the presenter will be willing to take questions from the board members (at their discretion) immediately following their presentation (for up to seven additional minutes).

Dawn O'Connell,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2021–19789 Filed 9–13–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Ninth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19

ACTION: Notice of amendment.

SUMMARY: The Secretary issues this amendment pursuant to section 319F–3 of the Public Health Service Act to expand the authority for certain Qualified Persons authorized to prescribe, dispense, and administer COVID–19 therapeutics that are covered countermeasures under section VI of this Declaration.

DATE: This amendment is effective as of September 14, 2021.

FOR FURTHER INFORMATION CONTACT: L. Paige Ezernack, Office of the Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; 202–260–0365, *paige.ezernack@hhs.gov.*

SUPPLEMENTARY INFORMATION: The Public Readiness and Emergency Preparedness Act (PREP Act) authorizes

the Secretary of Health and Human Services (the Secretary) to issue a Declaration to provide liability immunity to certain individuals and entities (Covered Persons) against any claim of loss caused by, arising out of, relating to, or resulting from the manufacture, distribution, administration, or use of medical countermeasures (Covered Countermeasures), except for claims involving ''willful misconduct'' as defined in the PREP Act. Under the PREP Act, a Declaration may be amended as circumstances warrant.

The PREP Act was enacted on December 30, 2005, as Public Law 109–148, Division C, § 2. It amended the Public Health Service (PHS) Act, adding section 319F–3, which addresses liability immunity, and section 319F–4, which creates a compensation program. These sections are codified at 42 U.S.C. 247d–6d and 42 U.S.C. 247d–6e, respectively. Section 319F–3 of the PHS Act has been amended by the Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA), Public Law 113–5, enacted on March 13, 2013, and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116–136, enacted on March 27, 2020, to expand Covered Countermeasures under the PREP Act.

On January 31, 2020, the former Secretary, Alex M. Azar II, declared a public health emergency pursuant to section 319 of the PHS Act, 42 U.S.C. 247d, effective January 27, 2020, for the entire United States to aid in the response of the nation's health care community to the COVID–19 outbreak. Pursuant to section 319 of the PHS Act, the Secretary renewed that declaration effective on April 26, 2020, July 25, 2020, October 23, 2020, January 21, 2021, April 21, 2021 and July 20, 2021.

On March 10, 2020, former Secretary Azar issued a Declaration under the PREP Act for medical countermeasures against COVID–19 (85 FR 15198, Mar. 17, 2020) (the Declaration). On April 10, the former Secretary amended the Declaration under the PREP Act to extend liability immunity to covered countermeasures authorized under the CARES Act (85 FR 21012, Apr. 15, 2020). On June 4, the former Secretary amended the Declaration to clarify that covered countermeasures under the Declaration include qualified countermeasures that limit the harm COVID–19 might otherwise cause. (85 FR 35100, June 8, 2020). On August 19, the former Secretary amended the declaration to add additional categories of Qualified Persons and amend the category of disease, health condition, or threat for which he recommended the administration or use of the Covered Countermeasures. (85 FR 52136, Aug. 24, 2020). On December 3, 2020, the former Secretary amended the declaration to incorporate Advisory Opinions of the General Counsel interpreting the PREP Act and the Secretary's Declaration and authorizations issued by the Department's Office of the Assistant Secretary for Health as an Authority Having Jurisdiction to respond; added an additional category of qualified persons under Section V of the Declaration; made explicit that the Declaration covers all qualified pandemic and epidemic products as defined under the PREP Act; added a third method of distribution to provide liability protections for, among other things, private distribution channels; made explicit that there can be situations where not administering a covered countermeasure to a particular individual can fall within the PREP Act and the Declaration's liability protections; made explicit that there are substantive federal legal and policy issues and interests in having a unified whole-of-nation response to the COVID–19 pandemic among federal, state, local, and private-sector entities; revised the effective time period of the Declaration; and republished the declaration in full. (85 FR 79190, Dec. 9, 2020). On February 2, 2021, the Acting Secretary Norris Cochran amended the Declaration to add additional categories of Qualified Persons authorized to prescribe, dispense, and administer COVID–19 vaccines that are covered countermeasures under the Declaration (86 FR 7872, Feb. 2, 2021). On February 16, 2021, the Acting Secretary amended the Declaration to add additional categories of Qualified Persons authorized to prescribe, dispense, and administer COVID–19 vaccines that are covered countermeasures under the Declaration (86 FR 9516, Feb. 16, 2021) and on February 22, 2021, the Department filed a notice of correction to the February 2 and February 16 notices correcting effective dates stated in the Declaration, and correcting the description of qualified persons added by the February 16, 2021 amendment. (86 FR 10588, Feb. 22, 2021). On March 11, 2021, the Acting Secretary amended the Declaration to add additional Qualified Persons authorized to prescribe, dispense, and administer covered countermeasures under the Declaration. (86 FR 14462, Mar. 16, 2021). On August 4, 2021, Secretary Xavier Becerra amended the Declaration to clarify categories of Qualified Persons and to expand the scope of authority for certain Qualified Persons to administer seasonal influenza vaccines to adults. (86 FR 41977, Aug. 4, 2021).

Secretary Xavier Becerra now amends section V of the Declaration to add subsection (i) to expand the scope of authority for licensed pharmacists to order and administer and qualified pharmacy technicians and pharmacy interns to administer COVID–19 therapeutics subcutaneously, intramuscularly, or orally as authorized, approved, or licensed by the U.S. Food and Drug Administration (FDA).

Accordingly, subsection V(i) authorizes:

(i) A State-licensed pharmacist who orders and administers, and pharmacy interns and qualified pharmacy technicians who administer (if the pharmacy intern or technician acts under the supervision of such pharmacist and the pharmacy intern or technician is licensed or registered by his or her State board of pharmacy) [1] FDA authorized, approved, or licensed COVID–19 therapeutics. Such State-licensed pharmacists and the State-licensed or registered interns or technicians under their supervision are qualified persons only if the following requirements are met:

i. The COVID–19 therapeutic must be authorized, approved, or licensed by the FDA;

ii. In the case of a licensed pharmacist ordering a COVID–19 therapeutic, the therapeutic must be ordered for subcutaneous, intramuscular, or oral administration and in accordance with the FDA approval, authorization, or licensing;

[1] Some states do not require pharmacy interns to be licensed or registered by the state board of pharmacy. As used herein, ''State-licensed or registered intern'' (or equivalent phrases) refers to pharmacy interns authorized by the state or board of pharmacy in the state in which the practical pharmacy internship occurs. The authorization can, but need not, take the form of a license from, or registration with, the State board of pharmacy. Similarly, states vary on licensure and registration requirements for pharmacy technicians. Some states require certain education, training, and/or certification for licensure or registration; others either have no prerequisites for licensure or registration or do not require licensure or registration at all. As used herein, to be a ''qualified pharmacy technician,'' pharmacy technicians working in states with licensure and/or registration requirements must be licensed and/or registered in accordance with state requirements; pharmacy technicians working in states without licensure and/or registration requirements must have a Certified Pharmacy Technician (CPhT) certification from either the Pharmacy Technician Certification Board or National Healthcareer Association. *See* Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020 at 2, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

iii. In the case of licensed pharmacists, qualified pharmacy technicians, and licensed or registered pharmacy interns administering the COVID–19 therapeutic, the therapeutic must be administered subcutaneously, intramuscularly, or orally in accordance with the FDA approval, authorization, or licensing;

iv. In the case of qualified pharmacy technicians, the supervising pharmacist must be readily and immediately available to the qualified pharmacy technician;

v. In the case of COVID–19 therapeutics administered through intramuscular or subcutaneous injections, the licensed pharmacist, licensed or registered pharmacy intern and qualified pharmacy technician must complete a practical training program that is approved by the Accreditation Council for Pharmacy Education (ACPE). This training program must include hands-on injection technique, clinical evaluation of indications and contraindications of COVID–19 therapeutics, the recognition and treatment of emergency reactions to COVID–19 therapeutics, and any additional training required in the FDA approval, authorization, or licensing;

vi. The licensed pharmacist, licensed or registered pharmacy intern and qualified pharmacy technician must have a current certificate in basic cardiopulmonary resuscitation; [2]

vii. The licensed pharmacist must comply with recordkeeping and reporting requirements of the jurisdiction in which he or she administers COVID–19 therapeutics, including informing the patient's primary-care provider when available and complying with requirements with respect to reporting adverse events;

viii. The licensed pharmacist, the licensed or registered pharmacy intern and the qualified pharmacy technician must comply with any applicable requirements (or conditions of use) that apply to the administration of COVID–19 therapeutics.

Description of This Amendment by Section

Section V. Covered Persons

Under the PREP Act and the Declaration, a ''qualified person'' is a ''covered person.'' Subject to certain limitations, a covered person is immune from suit and liability under Federal and State law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration or use of a covered countermeasure if a declaration under the PREP Act has been issued with respect to such countermeasure. ''Qualified person'' includes (A) a licensed health professional or other individual who is authorized to prescribe, administer, or dispense such countermeasures under the law of the State in which the countermeasure was prescribed, administered, or dispensed; or (B) ''a person within a category of persons so identified in a declaration by the Secretary'' under subsection (b) of the PREP Act. 42 U.S.C. 247d–6d(i)(8).

By this amendment to the Declaration, the Secretary clarifies and expands the authorization for a category of persons who are qualified persons under section 247d–6d(i)(8)(B). First, the amendment clarifies that licensed pharmacists are authorized to order and administer and licensed or registered pharmacy interns and qualified pharmacy technicians are authorized to administer COVID–19 therapeutics that are Covered Countermeasures under section VI of this Declaration. The Secretary anticipates that there will be a need to increase the available pool of providers able to order and administer COVID–19 therapeutics to address rising COVID–19 cases, to expand patient access to these critical therapies, and to keep as many patients out of the hospital as possible. Rising COVID–19 cases, largely attributable to the Delta variant, is a public health threat caused by COVID–19, placing additional strains on our healthcare system. Pharmacists, pharmacy technicians, and pharmacy interns are well positioned to increase access to therapeutics and have played a critical role in this pandemic in overseeing COVID–19 testing and vaccine administration. Given their skill set and training, as well as looming provider shortages, pharmacists, pharmacy technicians, and pharmacy interns will quickly expand access to COVID–19 therapeutics.

COVID–19 therapeutics may be administered as intramuscular injections, subcutaneous injections, or orally and would require minimal, if any, additional training to administer beyond training pharmacists, pharmacy technicians, and pharmacy interns have already received for vaccine administration, and would not place any undue training burden on providers.

As qualified persons, these licensed pharmacists, qualified pharmacy technicians and interns will be afforded liability protections in accordance with the PREP Act and the terms of this amended Declaration. Second, to the extent that any State law that would otherwise prohibit these healthcare professionals who are a ''qualified person'' from prescribing, dispensing, or administering COVID–19 therapeutics or other Covered Countermeasures, such law is preempted. On May 19, 2020, the Office of the General Counsel issued an advisory opinion concluding that, because licensed pharmacists are ''qualified persons'' under this declaration, the PREP Act preempts state law that would otherwise prohibit such pharmacists from ordering and administering authorized COVID–19 diagnostic tests.[3] The opinion relied in part on the fact that the Congressional delegation of authority to the Secretary under the PREP Act to specify a class of persons, beyond those who are authorized to administer a covered countermeasure under State law, as ''qualified persons'' would be rendered a nullity in the absence of such preemption. This opinion is incorporated by reference into this declaration. Based on the reasoning set forth in the May 19, 2020 advisory opinion, any State law that would otherwise prohibit a member of any of the classes of ''qualified persons'' specified in this declaration from administering a covered countermeasure is likewise preempted. In accordance with section 319F–3(i)(8)(A) of the Public Health Service Act, a State remains free to expand the universe of individuals authorized to administer

[2] This requirement is satisfied by, among other things, a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the ACPE, or the Accreditation Council for Continuing Medical Education. The phrase ''current certificate in basic cardiopulmonary resuscitation,'' when used in the September 3, 2020 or October 20, 2020 OASH authorizations, shall be interpreted the same way. *See* Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH, Sept. 3, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//licensed-pharmacists-and-pharmacy-interns-regarding-covid-19-vaccines-immunity.pdf* (last visited Jan. 24, 2021); Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

[3] Department of Health and Human Services General Counsel Advisory Opinion on the Public Readiness and Emergency Preparedness Act, May 19, 2020, available at: *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/prep-act-advisory-opinion-hhs-ogc.pdf/* (last visited Jan. 24, 2021). *See also,* Department of Justice Office of Legal Counsel Advisory Opinion for Robert P. Charrow, General Counsel of the Department of Health and Human Services, January 12, 2021, available at: *https://www.justice.gov/sites/default/files/opinions/attachments/2021/01/19/2021-01-19-prep-act-preemption.pdf* (last visited Jan. 24, 2021).

covered countermeasures within its jurisdiction under State law.

The plain language of the PREP Act makes clear that there is preemption of state law as described above. Furthermore, preemption of State law is justified to respond to the nation-wide public health emergency caused by COVID–19 as it will enable States to quickly expand the vaccination, treatment and prevention workforces with additional qualified healthcare professionals where State or local requirements might otherwise inhibit or delay allowing these healthcare professionals to participate in the COVID–19 countermeasure program.

Amendments to Declaration

Amended Declaration for Public Readiness and Emergency Preparedness Act Coverage for medical countermeasures against COVID–19.

Section V of the March 10, 2020 Declaration under the PREP Act for medical countermeasures against COVID–19, as amended April 10, 2020, June 4, 2020, August 19, 2020, as amended and republished on December 3, 2020, as amended on February 2, 2021, as amended March 11, 2021, and as amended on August 4, 2021, is further amended pursuant to section 319F–3(b)(4) of the PHS Act as described below. All other sections of the Declaration remain in effect as republished at 85 FR 79190 (Dec. 9, 2020).

1. Covered Persons, section V, delete in full and replace with:

V. Covered Persons

42 U.S.C. 247d–6d(i)(2), (3), (4), (6), (8)(A) and (B)

Covered Persons who are afforded liability immunity under this Declaration are ''manufacturers,'' ''distributors,'' ''program planners,'' ''qualified persons,'' and their officials, agents, and employees, as those terms are defined in the PREP Act, and the United States. ''Order'' as used herein and in guidance issued by the Office of the Assistant Secretary for Health [4] means a provider medication order, which includes prescribing of vaccines, or a laboratory order, which includes prescribing laboratory orders, if required. In addition, I have determined that the following additional persons are qualified persons:

(a) Any person authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction, as described in Section VII below, to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a Declaration of an Emergency, as that term is defined in Section VII of this Declaration; [5]

(b) Any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity under an Emergency Use Authorization in accordance with Section 564 of the FD&C Act;

(c) Any person authorized to prescribe, administer, or dispense Covered Countermeasures in accordance with Section 564A of the FD&C Act;

(d) A State-licensed pharmacist who orders and administers, and pharmacy interns and qualified pharmacy technicians who administer (if the pharmacy intern or technician acts under the supervision of such pharmacist and the pharmacy intern or technician is licensed or registered by his or her State board of pharmacy),[6] (1) vaccines that the Advisory Committee on Immunization Practices (ACIP) recommends to persons ages three through 18 according to ACIP's standard immunization schedule or (2) seasonal influenza vaccine administered by qualified pharmacy technicians and interns that the ACIP recommends to persons aged 19 and older according to ACIP's standard immunization schedule; or (3) FDA authorized or FDA licensed COVID–19 vaccines to persons ages three or older. Such State-licensed pharmacists and the State-licensed or registered interns or technicians under their supervision are qualified persons only if the following requirements are met:

i. The vaccine must be authorized, approved, or licensed by the FDA;

ii. In the case of a COVID–19 vaccine, the vaccination must be ordered and administered according to ACIP's COVID–19 vaccine recommendation(s);

iii. In the case of a childhood vaccine, the vaccination must be ordered and administered according to ACIP's standard immunization schedule;

iv. In the case of seasonal influenza vaccine administered by qualified pharmacy technicians and interns, the vaccination must be ordered and administered according to ACIP's standard immunization schedule;

v. In the case of pharmacy technicians, the supervising pharmacist must be readily and immediately available to the immunizing qualified pharmacy technician;

vi. The licensed pharmacist must have completed the immunization

[4] See Guidance for Licensed Pharmacists, COVID–19 Testing, and Immunity Under the PREP Act, OASH, Apr. 8, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//authorizing-licensed-pharmacists-to-order-and-administer-covid-19-tests.pdf* (last visited Jan. 24, 2021); Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH, Sept. 3, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//licensed-pharmacists-and-pharmacy-interns-regarding-covid-19-vaccines-immunity.pdf* (last visited Jan. 24, 2021).

[5] See, *e.g.,* Guidance for Licensed Pharmacists, COVID–19 Testing, and Immunity Under the PREP Act, OASH, Apr. 8, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//authorizing-licensed-pharmacists-to-order-and-administer-covid-19-tests.pdf* (last visited Jan. 24, 2021); Guidance for PREP Act Coverage for COVID–19 Screening Tests at Nursing Homes, Assisted-Living Facilities, Long-Term-Care Facilities, and other Congregate Facilities, OASH, Aug. 31, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/prep-act-coverage-for-screening-in-congregate-settings.pdf* (last visited Jan. 24, 2021); Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH, Sept. 3, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//licensed-pharmacists-and-pharmacy-interns-regarding-covid-19-vaccines-immunity.pdf* (last visited Jan. 24, 2021); Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021); PREP Act Authorization for Pharmacies Distributing and Administering Certain Covered Countermeasures, Oct. 29, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-authorization-pharmacies-administering-covered-countermeasures.pdf* (last visited Jan. 24, 2021) (collectively, OASH PREP Act Authorizations). Nothing herein shall suggest that, for purposes of the Declaration, the foregoing are the only persons authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction.

[6] Some states do not require pharmacy interns to be licensed or registered by the state board of pharmacy. As used herein, ''State-licensed or registered intern'' (or equivalent phrases) refers to pharmacy interns authorized by the state or board of pharmacy in the state in which the practical pharmacy internship occurs. The authorization can, but need not, take the form of a license from, or registration with, the State board of pharmacy. Similarly, states vary on licensure and registration requirements for pharmacy technicians. Some states require certain education, training, and/or certification for licensure or registration; others either have no prerequisites for licensure or registration or do not require licensure or registration at all. As used herein, to be a ''qualified pharmacy technician,'' pharmacy technicians working in states with licensure and/or registration requirements must be licensed and/or registered in accordance with state requirements; pharmacy technicians working in states without licensure and/or registration requirements must have a CPhT certification from either the Pharmacy Technician Certification Board or National Healthcareer Association. *See* Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020 at 2, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

training that the licensing State requires for pharmacists to order and administer vaccines. If the State does not specify training requirements for the licensed pharmacist to order and administer vaccines, the licensed pharmacist must complete a vaccination training program of at least 20 hours that is approved by the ACPE to order and administer vaccines. Such a training program must include hands on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines;

vii. The licensed or registered pharmacy intern and qualified pharmacy technician must complete a practical training program that is approved by the ACPE. This training program must include hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines;

viii. The licensed pharmacist, licensed or registered pharmacy intern and qualified pharmacy technician must have a current certificate in basic cardiopulmonary resuscitation; [7]

ix. The licensed pharmacist must complete a minimum of two hours of ACPE-approved, immunization-related continuing pharmacy education during each State licensing period;

x. The licensed pharmacist must comply with recordkeeping and reporting requirements of the jurisdiction in which he or she administers vaccines, including informing the patient's primary-care provider when available, submitting the required immunization information to the State or local immunization information system (vaccine registry), complying with requirements with respect to reporting adverse events, and complying with requirements whereby the person administering a vaccine must review the vaccine registry or other vaccination records prior to administering a vaccine;

xi. The licensed pharmacist must inform his or her childhood-vaccination patients and the adult caregiver accompanying the child of the importance of a well-child visit with a pediatrician or other licensed primary care provider and refer patients as appropriate; and

xii. The licensed pharmacist, the licensed or registered pharmacy intern and the qualified pharmacy technician must comply with any applicable requirements (or conditions of use) as set forth in the Centers for Disease Control and Prevention (CDC) COVID–19 vaccination provider agreement and any other federal requirements that apply to the administration of COVID–19 vaccine(s).

(e) Healthcare personnel using telehealth to order or administer Covered Countermeasures for patients in a state other than the state where the healthcare personnel are licensed or otherwise permitted to practice. When ordering and administering Covered Countermeasures by means of telehealth to patients in a state where the healthcare personnel are not already permitted to practice, the healthcare personnel must comply with all requirements for ordering and administering Covered Countermeasures to patients by means of telehealth in the state where the healthcare personnel are permitted to practice. Any state law that prohibits or effectively prohibits such a qualified person from ordering and administering Covered Countermeasures by means of telehealth is preempted.[8] Nothing in this Declaration shall preempt state laws that permit additional persons to deliver telehealth services;

(f) Any healthcare professional or other individual who holds an active license or certification permitting the person to prescribe, dispense, or administer vaccines under the law of any State as of the effective date of this amendment, or a pharmacist or pharmacy intern as authorized under the section V(d) of this Declaration, who prescribes, dispenses, or administers COVID–19 vaccines that are Covered Countermeasures under section VI of this Declaration in any jurisdiction where the PREP Act applies, other than the State in which the license or certification is held, in association with a COVID–19 vaccination effort by a federal, State, local Tribal or territorial authority or by an institution in the State in which the COVID–19 vaccine covered countermeasure is administered, so long as the license or certification of the healthcare professional has not been suspended or restricted by any licensing authority, surrendered while under suspension, discipline or investigation by a licensing authority or surrendered following an arrest, and the individual is not on the List of Excluded Individuals/Entities maintained by the Office of Inspector General, subject to: (i) Documentation of completion of the Centers for Disease Control and Prevention COVID–19 (CDC) Vaccine Training Modules [9] and, for healthcare providers who are not currently practicing, documentation of an observation period by a currently practicing healthcare professional experienced in administering intramuscular injections, and for whom administering intramuscular injections is in their ordinary scope of practice, who confirms competency of the healthcare provider in preparation and administration of the COVID–19 vaccine(s) to be administered;

(g) Any member of a uniformed service (including members of the National Guard in a Title 32 duty status) (hereafter in this paragraph ''service member'') or Federal government, employee, contractor, or volunteer who prescribes, administers, delivers, distributes or dispenses a Covered Countermeasure. Such Federal government service members, employees, contractors, or volunteers are qualified persons if the following requirement is met: The executive department or agency by or for which the Federal service member, employee, contractor, or volunteer is employed, contracts, or volunteers has authorized or could authorize that service member, employee, contractor, or volunteer to prescribe, administer, deliver, distribute, or dispense the Covered Countermeasure as any part of the duties or responsibilities of that service member, employee, contractor, or volunteer, even if those authorized duties or responsibilities ordinarily would not extend to members of the public or otherwise would be more limited in scope than the activities such service member, employees, contractors,

[7] This requirement is satisfied by, among other things, a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the ACPE, or the Accreditation Council for Continuing Medical Education. The phrase ''current certificate in basic cardiopulmonary resuscitation,'' when used in the September 3, 2020 or October 20, 2020 OASH authorizations, shall be interpreted the same way. *See* Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH, Sept. 3, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//licensed-pharmacists-and-pharmacy-interns-regarding-covid-19-vaccines-immunity.pdf* (last visited Jan. 24, 2021); Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

[8] See, *e.g.,* Advisory Opinion 20–02 on the Public Readiness and Emergency Preparedness Act and the Secretary's Declaration under the Act, May 19, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/advisory-opinion-20-02-hhs-ogc-prep-act.pdf* (last visited Jan. 24, 2021).

[9] See COVID–19 Vaccine Training Modules, available at *https://www.cdc.gov/vaccines/covid-19/training.html.*

or volunteers are authorized to carry out under this declaration; and

(h) The following healthcare professionals and students in a healthcare profession training program subject to the requirements of this paragraph:

1. Any midwife, paramedic, advanced or intermediate emergency medical technician (EMT), physician assistant, respiratory therapist, dentist, podiatrist, optometrist or veterinarian licensed or certified to practice under the law of any state who prescribes, dispenses, or administers COVID–19 vaccines that are Covered Countermeasures under section VI of this Declaration in any jurisdiction where the PREP Act applies in association with a COVID–19 vaccination effort by a State, local, Tribal or territorial authority or by an institution in which the COVID–19 vaccine covered countermeasure is administered;

2. Any physician, advanced practice registered nurse, registered nurse, practical nurse, pharmacist, pharmacy intern, midwife, paramedic, advanced or intermediate EMT, respiratory therapist, dentist, physician assistant, podiatrist, optometrist, or veterinarian who has held an active license or certification under the law of any State within the last five years, which is inactive, expired or lapsed, who prescribes, dispenses, or administers COVID–19 vaccines that are Covered Countermeasures under section VI of this Declaration in any jurisdiction where the PREP Act applies in association with a COVID–19 vaccination effort by a State, local, Tribal or territorial authority or by an institution in which the COVID–19 vaccine covered countermeasure is administered, so long as the license or certification was active and in good standing prior to the date it went inactive, expired or lapsed and was not revoked by the licensing authority, surrendered while under suspension, discipline or investigation by a licensing authority or surrendered following an arrest, and the individual is not on the List of Excluded Individuals/Entities maintained by the Office of Inspector General;

3. Any medical, nursing, pharmacy, pharmacy intern, midwife, paramedic, advanced or intermediate EMT, physician assistant, respiratory therapy, dental, podiatry, optometry or veterinary student with appropriate training in administering vaccines as determined by his or her school or training program and supervision by a currently practicing healthcare professional experienced in administering intramuscular injections who administers COVID–19 vaccines that are Covered Countermeasures under section VI of this Declaration in any jurisdiction where the PREP Act applies in association with a COVID–19 vaccination effort by a State, local, Tribal or territorial authority or by an institution in which the COVID–19 vaccine covered countermeasure is administered;

Subject to the following requirements:

i. The vaccine must be authorized, approved, or licensed by the FDA;

ii. Vaccination must be ordered and administered according to ACIP's COVID–19 vaccine recommendation(s);

iii. The healthcare professionals and students must have documentation of completion of the Centers for Disease Control and Prevention COVID–19 Vaccine Training Modules and, if applicable, such additional training as may be required by the State, territory, locality, or Tribal area in which they are prescribing, dispensing, or administering COVID–19 vaccines;

iv. The healthcare professionals and students must have documentation of an observation period by a currently practicing healthcare professional experienced in administering intramuscular injections, and for whom administering vaccinations is in their ordinary scope of practice, who confirms competency of the healthcare provider or student in preparation and administration of the COVID–19 vaccine(s) to be administered and, if applicable, such additional training as may be required by the State, territory, locality, or Tribal area in which they are prescribing, dispensing, or administering COVID–19 vaccines;

v. The healthcare professionals and students must have a current certificate in basic cardiopulmonary resuscitation; [10]

vi. The healthcare professionals and students must comply with recordkeeping and reporting requirements of the jurisdiction in which he or she administers vaccines, including informing the patient's primary-care provider when available, submitting the required immunization information to the State or local immunization information system (vaccine registry), complying with requirements with respect to reporting adverse events, and complying with requirements whereby the person administering a vaccine must review the vaccine registry or other vaccination records prior to administering a vaccine; and

vii. The healthcare professionals and students comply with any applicable requirements (or conditions of use) as set forth in the Centers for Disease Control and Prevention (CDC) COVID–19 vaccination provider agreement and any other federal requirements that apply to the administration of COVID–19 vaccine(s).

(i) A State-licensed pharmacist who orders and administers, and pharmacy interns and qualified pharmacy technicians who administer (if the pharmacy intern or technician acts under the supervision of such pharmacist and the pharmacy intern or technician is licensed or registered by his or her State board of pharmacy) [11] FDA authorized, approved, or licensed COVID–19 therapeutics. Such State-licensed pharmacists and the State-licensed or registered interns or technicians under their supervision are

[10] This requirement is satisfied by, among other things, a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the ACPE, or the Accreditation Council for Continuing Medical Education. The phrase ''current certificate in basic cardiopulmonary resuscitation,'' when used in the September 3, 2020 or October 20, 2020 OASH authorizations, shall be interpreted the same way. *See* Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH, Sept. 3, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//licensed-pharmacists-and-pharmacy-interns-regarding-covid-19-vaccines-immunity.pdf* (last visited Jan. 24, 2021); Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

[11] Some states do not require pharmacy interns to be licensed or registered by the state board of pharmacy. As used herein, ''State-licensed or registered intern'' (or equivalent phrases) refers to pharmacy interns authorized by the state or board of pharmacy in the state in which the practical pharmacy internship occurs. The authorization can, but need not, take the form of a license from, or registration with, the State board of pharmacy. Similarly, states vary on licensure and registration requirements for pharmacy technicians. Some states require certain education, training, and/or certification for licensure or registration; others either have no prerequisites for licensure or registration or do not require licensure or registration at all. As used herein, to be a ''qualified pharmacy technician,'' pharmacy technicians working in states with licensure and/or registration requirements must be licensed and/or registered in accordance with state requirements; pharmacy technicians working in states without licensure and/or registration requirements must have a CPhT certification from either the Pharmacy Technician Certification Board or National Healthcareer Association. *See* Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020 at 2, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

qualified persons only if the following requirements are met:

ix. The COVID–19 therapeutic must be authorized, approved, or licensed by the FDA;

x. In the case of a licensed pharmacist ordering a COVID–19 therapeutic, the therapeutic must be ordered for subcutaneous, intramuscular, or oral administration and in accordance with the FDA approval, authorization, or licensing;

xi. In the case of licensed pharmacists, qualified pharmacy technicians, and licensed or registered pharmacy interns administering the COVID–19 therapeutic, the therapeutic must be administered subcutaneously, intramuscularly, or orally in accordance with the FDA approval, authorization, or licensing;

xii. In the case of qualified pharmacy technicians, the supervising pharmacist must be readily and immediately available to the qualified pharmacy technician;

xiii. In the case of COVID–19 therapeutics administered through intramuscular or subcutaneous injections, the licensed pharmacist, licensed or registered pharmacy intern and qualified pharmacy technician must complete a practical training program that is approved by the ACPE. This training program must include hands-on injection technique, clinical evaluation of indications and contraindications of COVID–19 therapeutics, the recognition and treatment of emergency reactions to COVID–19 therapeutics, and any additional training required in the FDA approval, authorization, or licensing;

xiv. The licensed pharmacist, licensed or registered pharmacy intern and qualified pharmacy technician must have a current certificate in basic cardiopulmonary resuscitation; [12]

xv. The licensed pharmacist must comply with recordkeeping and reporting requirements of the jurisdiction in which he or she administers COVID–19 therapeutics, including informing the patient's primary-care provider when available and complying with requirements with respect to reporting adverse events;

xvi. The licensed pharmacist, the licensed or registered pharmacy intern and the qualified pharmacy technician must comply with any applicable requirements (or conditions of use) that apply to the administration of COVID–19 therapeutics.

Nothing in this Declaration shall be construed to affect the National Vaccine Injury Compensation Program, including an injured party's ability to obtain compensation under that program. Covered countermeasures that are subject to the National Vaccine Injury Compensation Program authorized under 42 U.S.C. 300aa–10 *et seq.* are covered under this Declaration for the purposes of liability immunity and injury compensation only to the extent that injury compensation is not provided under that Program. All other terms and conditions of the Declaration apply to such covered countermeasures.

2. Effective Time Period, section XII, delete in full and replace with:

Liability protections for any respiratory protective device approved by NIOSH under 42 CFR part 84, or any successor regulations, through the means of distribution identified in Section VII(a) of this Declaration, begin on March 27, 2020 and extend through October 1, 2024.

Liability protections for all other Covered Countermeasures identified in Section VI of this Declaration, through means of distribution identified in Section VII(a) of this Declaration, begin on February 4, 2020 and extend through October 1, 2024.

Liability protections for all Covered Countermeasures administered and used in accordance with the public health and medical response of the Authority Having Jurisdiction, as identified in Section VII(b) of this Declaration, begin with a Declaration of Emergency as that term is defined in Section VII (except that, with respect to qualified persons who order or administer a routine childhood vaccination that ACIP recommends to persons ages three through 18 according to ACIP's standard immunization schedule, liability protections began on August 24, 2020), and last through (a) the final day the Declaration of Emergency is in effect, or (b) October 1, 2024, whichever occurs first.

Liability protections for all Covered Countermeasures identified in Section VII(c) of this Declaration begin on December 9, 2020 and last through (a) the final day the Declaration of Emergency is in effect or (b) October 1, 2024 whichever occurs first.

Liability protections for Qualified Persons under section V(d) of the Declaration who are qualified pharmacy technicians and interns to seasonal influenza vaccine to persons aged 19 and older begin on August 4, 2021.

Liability protections for Qualified Persons under section V(f) of the Declaration begin on February 2, 2021, and last through October 1, 2024.

Liability protections for Qualified Persons under section V(g) of the Declaration begin on February 16, 2021, and last through October 1, 2024.

Liability protections for Qualified Persons who are physicians, advanced practice registered nurses, registered nurses, or practical nurses under section V(h) of the Declaration begins on February 2, 2021 and last through October 1, 2024, with additional conditions effective as of March 11, 2021and liability protections for all other Qualified persons under section V(h) begins on March 11, 2021 and last through October 1, 2024.

Liability protections for Qualified Persons under section V(i) of the Declaration who are licensed pharmacists to order and administer and qualified pharmacy technicians and licensed or registered pharmacy interns to administer COVID–19 therapeutics begin on September 9, 2021.

Authority: 42 U.S.C. 247d–6d.

Dated: September 9, 2021.

Xavier Becerra,

Secretary, U.S. Department of Health and Human Services.

[FR Doc. 2021–19790 Filed 9–9–21; 4:15 pm]

BILLING CODE 4150–28–P

[12] This requirement is satisfied by, among other things, a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the ACPE, or the Accreditation Council for Continuing Medical Education. The phrase ''current certificate in basic cardiopulmonary resuscitation,'' when used in the September 3, 2020 or October 20, 2020 OASH authorizations, shall be interpreted the same way. *See* Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH Guidance for Licensed Pharmacists and Pharmacy Interns Regarding COVID–19 Vaccines and Immunity under the PREP Act, OASH, Sept. 3, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//licensed-pharmacists-and-pharmacy-interns-regarding-covid-19-vaccines-immunity.pdf* (last visited Jan. 24, 2021); Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID–19 Vaccines, and COVID–19 Testing, OASH, Oct. 20, 2020, available at *https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents//prep-act-guidance.pdf* (last visited Jan. 24, 2021).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Study Section.
Date: October 28–29, 2021.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).
Contact Person: Keary A Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–A, Bethesda, MD 20892–7924, (301) 827–7912, *copeka@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 8, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19759 Filed 9–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immuno-Oncology Research.
Date: October 14–15, 2021.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Maria Elena Cardenas-Corona, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–867–5309, *maria.cardenas-corona@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 19–367: Maximizing Investigators' Research Award.
Date: October 14, 2021.
Time: 3:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Anita Szajek, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6276, *anita.szajek@nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Injury, Repair, and Remodeling Study Section.
Date: October 18–19, 2021.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Molecular Neuropharmacology and Signaling Study Section.
Date: October 18–19, 2021.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Vanessa S. Boyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4016F, MSC 7812, Bethesda, MD 20892, (301) 435–0908, *boycevs@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Promotion in Communities Study Section.
Date: October 18–19, 2021.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Helena Eryam Dagadu, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20892, 301–435–1266, *dagaduhe@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Immunopathology and Immunotherapy Study Section.
Date: October 18–19, 2021.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Zhang-Zhi Hu, M.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov*.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Bacterial Pathogenesis Study Section.
Date: October 18–19, 2021.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.
Date: October 18–19, 2021.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.
Date: October 18–19, 2021.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 8, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19761 Filed 9–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Clinical and Basic Science Study Section.

Date: October 28–29, 2021.

Time: 10:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Rajiv Kumar, Ph.D., Chief Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Bethesda, MD 20892, (301) 827–4612, *rajiv.kumar@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 8, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19708 Filed 9–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; NHLBI Single-Site and Pilot Clinical Trials Study Section.

Date: October 27–28, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: YingYing Li-Smerin, M.D., Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Room 207–P, Bethesda, MD 20892–7924, 301–827–7942, *lismerin@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 8, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19760 Filed 9–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Charles Hall, Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, Division of Cancer Diagnosis and Treatment, National Cancer Institute, 9609 Medical Center Drive, Bethesda, Maryland 20892 or call non-toll-free number (240) 276–6575 or Email your request, including your address to: *HallCh@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer, 0925–0613, Expiration Date 3/31/2022, REVISION, National Cancer

Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The U.S. Food and Drug Administration (FDA) holds the National Cancer Institute (NCI), Division of Cancer Treatment and Diagnosis/ Cancer Therapy Evaluation Program (NCI/DCTD/CTEP) and the Division of Cancer Prevention (DCP) responsible, as a sponsor of investigational drug trials, to assure the FDA that systems for accountability are being maintained by investigators in its clinical trials program. Data obtained from the Investigational Agent Accountability Record Forms (aka. Drug Accountability Record Forms—DARF) are used to track the dispensing of investigational anticancer agents from receipt from the NCI to dispensing or administration to patients. Requirements for the tracking of investigational agents under an Investigational New Drug Application are outlined in title 21 Code of Federal Regulations (CRF) part 312. NCI and/or its auditors use this information to ensure compliance with federal regulations and NCI policies. Two additional forms have been added to this submission. The Electronic Agent Accountability Record Form Report (aka electronic Drug Accountability Record Form-eDARF) will be phased into use to replace two of the currently existing forms and will improve tracking and distribution of investigational agents. A second form, the International Investigator Statement (IIS), will ensure compliance of international investigators' participation on CTEP studies.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden are 4,831 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
A1: Investigational Agent Accountability Record Form (DARF)	Individuals	760	20	4/60	1,013
A2: Investigational Agent Accountability Record for Oral Agents Form (DARF-Oral)	Individuals	2,280	20	4/60	3,040
A3: Electronic Agent Accountability Record Form (eDARF)	Individuals	760	20	1/60	253
A4: International Investigator Statement (IIS) (Initial Response)	Individuals	2,100	1	15/60	525
Totals		5,900	78,100		4,831

Dated: September 8, 2021.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2021–19741 Filed 9–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0736]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0029

AGENCY: Coast Guard, Homeland Security (DHS).

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension for the following collection of information: 1625–0029, Self-propelled Liquefied Gas Vessels; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 15, 2021.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2021–0736] to the Coast Guard 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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave., SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek

an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2021–0736], and must be received by November 15, 2021.

Submitting Comments

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,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and 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).

Information Collection Request

Title: Self-propelled Liquefied Gas Vessels.

OMB Control Number: 1625–0029.

Summary: The information is needed to ensure compliance with our rules for the design and operation of liquefied gas carriers.

Need: Title 46 U.S. Code sections 3703 and 9101 authorizes the Coast Guard to establish regulations to protect life, property, and the environment from the hazards associated with the carriage of dangerous liquid cargo in bulk. Title 46 CFR part 154 prescribes the rules for the carriage of liquefied gases in bulk on self-propelled vessels by governing the design, construction, equipment, and operation of these vessels and the safety of personnel aboard them.

Forms: None.

Respondents: Owners and operators of self-propelled vessels carrying liquefied gas.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 8,169 hours to 14,781 hours a year, due to an increase in the estimated number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: September 8, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–19755 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0737]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0058

AGENCY: Coast Guard, Homeland Security (DHS).

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension for the following collection of information: 1625–0058, Application for Permit to Transport Municipal and Commercial Waste; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 15, 2021.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2021–0737] to the Coast Guard 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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2021–0737], and must be received by November 15, 2021.

Submitting Comments

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,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and 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).

Information Collection Request

Title: Application for Permit to Transport Municipal and Commercial Waste.

OMB Control Number: 1625–0058.

Summary: This information collection provides the basis for issuing or denying a permit, required under 33 U.S. Code 2601 and 33 CFR 151.1009, for the transportation of municipal or commercial waste in the coastal waters of the United States.

Need: In accordance with 33 U.S.C. 2601, the U.S. Coast Guard issued regulations requiring an owner or operator of a vessel to apply for a permit to transport municipal or commercial waste in the United States and to display an identification number or other marking on their vessel.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: Every 18 months.

Hour Burden Estimate: The estimated burden has decreased from 13 hours to 4 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: September 8, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–19756 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2164]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistance Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Alabama: Shelby	City of Pelham (20–04–2379P).	The Honorable Gary W. Waters, Mayor, City of Pelham, P.O. Box 1419, Pelham, AL 35124.	City Hall, 3162 Pelham Parkway, Pelham, AL 35124.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 11, 2021	010193
Arkansas: Benton	City of Bentonville, (21–06–0311P).	The Honorable Stephanie Orman, Mayor, City of Bentonville, 305 Southwest A Street, Bentonville, AR 72712.	City Hall, 3200 Southwest Municipal Drive, Bentonville, AR 72712.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	050012
Colorado:						
Denver	City and County of Denver, (21–08–0407P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 North Bannock Street, Room 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 27, 2021	080046
Eagle	Unincorporated areas of Eagle County, (21–08–0109P).	Mr. Jeff Shroll, Eagle County Manager, P.O. Box 850, Eagle, CO 81631.	Eagle County Engineering Department, 500 Broadway Street, Eagle, CO 81631.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 5, 2021	080051
El Paso	City of Colorado Springs, (21–08–0112P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Suite 601, Colorado Springs, CO 80903.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	080060
Delaware: Sussex	City of Rehoboth Beach, (21–03–0968P).	The Honorable Stan Mills, Mayor, City of Rehoboth Beach, 229 Rehoboth Avenue, Rehoboth Beach, DE 19971.	Building and Licensing Department, 229 Rehoboth Avenue, Rehoboth Beach, DE 19971.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 13, 2021	105086
Florida:						
Palm Beach	Unincorporated areas of Palm Beach County, (20–04–4796P).	Ms. Verdenia C. Baker, Palm Beach County Administrator, 301 North Olive Avenue, 11th Floor, West Palm Beach, FL 33401.	Palm Beach County Planning, Zoning and Building Department, 2300 North Jog Road, West Palm Beach, FL 33411.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	120192
Pasco	City of Zephyrhills, (20–04–6053P).	The Honorable Gene Whitfield, Mayor, City of Zephyrhills, 5335 8th Street, Zephyrhills, FL 33542.	City Hall, 5335 8th Street, Zephyrhills, FL 33542.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 16, 2021	120235
Sarasota	Unincorporated areas of Sarasota County, (21–04–3579P).	The Honorable Alan Maio, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 13, 2021	125144
Sumter	City of Wildwood, (20–04–3810P).	Mr. Jason F. McHugh, Manager, City of Wildwood, 100 North Main Street, Wildwood, FL 34785.	City Hall, 100 North Main Street, Wildwood, FL 34785.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 10, 2021	120299
Sumter	City of Wildwood, (21–04–1158P).	Mr. Jason F. McHugh, Manager, City of Wildwood, 100 North Main Street, Wildwood, FL 34785.	City Hall, 100 North Main Street, Wildwood, FL 34785.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 10, 2021	120299
Sumter	Unincorporated areas of Sumter County, (20–04–3810P).	The Honorable Garry Breeden, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	Sumter County Service Center, 7375 Powell Road, Wildwood, FL 34785.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 10, 2021	120296
Sumter	Unincorporated areas of Sumter County, (21–04–1158P).	The Honorable Garry Breeden, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	Sumter County Service Center, 7375 Powell Road, Wildwood, FL 34785.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 10, 2021	120296
Volusia	City of DeBary, (21–04–0102P).	The Honorable Karen Chasez, Mayor, City of DeBary, 403 River Drive, DeBary, FL 32713.	City Hall, 16 Columbia Road, DeBary, FL 32713.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 24, 2021	120672

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Oklahoma: Washington.	City of Bartlesville, (21–06–1105P).	The Honorable Dale Copeland, Mayor, City of Bartlesville, 401 South Johnstone Avenue, Bartlesville, OK 74003.	City Hall, 401 South Johnstone Avenue, Bartlesville, OK 74003.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	400220
Pennsylvania: Philadelphia.	City of Philadelphia, (21–03–0270P).	The Honorable James Kenney, Mayor, City of Philadelphia, 1400 John F. Kennedy Boulevard, Room 215, Philadelphia, PA 19107.	Department of Licenses and Inspections, 1400 John F. Kennedy Boulevard, Room 215, Philadelphia, PA 19107.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 23, 2021	420757
Texas:						
Denton	City of Corinth, (21–06–0453P).	Mr. Bob Hart, Manager, City of Corinth, 3300 Corinth Parkway, Corinth, TX 76208.	Planning and Development Department, 3300 Corinth Parkway, Corinth, TX 76208.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	481143
Denton	City of Denton, (21–06–0453P).	Ms. Sara Hensley, Interim City Manager, City of Denton, 215 East McKinney Street, Suite 100, Denton, TX 76201.	Engineering Department, 901–A Texas Street, Denton, TX 76509.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	480194
Montgomery ...	City of Conroe, (21–06–0972P).	The Honorable Jody Czajkoski, Mayor, City of Conroe, P.O. Box 3066, Conroe, TX 77305.	City Hall, 700 Metcalf Street, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 26, 2021	480484
Montgomery ...	City of Shenandoah, (21–06–0972P).	The Honorable Ritch Wheeler, Mayor, City of Shenandoah, 29955 I–45 North, Shenandoah, TX 77381.	City Hall, 29955 I–45 North, Shenandoah, TX 77381.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 26, 2021	481256
Montgomery ...	Unincorporated areas of Montgomery County, (21–06–0972P).	The Honorable Mark J. Keough, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Court House, 501 North Thompson Street, Suite 103, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 26, 2021	480483
Rockwall	City of Rockwall, (21–06–1106P).	The Honorable Kevin Fowler, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	Engineering Department, 385 South Goliad Street, Rockwall, TX 75087.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 20, 2021	480547
Virginia:						
Fairfax	City of Alexandria, (21–03–0303P).	The Honorable Justin M. Wilson, Mayor, City of Alexandria, 301 King Street, Room 2300, Alexandria, VA 22314.	City Hall, 301 King Street, Room 4200, Alexandria, VA 22314.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 13, 2021	515519
Fairfax	Unincorporated areas of Fairfax County, (21–03–0303P).	The Honorable Jeffrey C. McKay, Chairman At-Large, Fairfax County Board of Supervisors, 12000 Government Center Parkway, Suite 530, Fairfax, VA 22035.	Fairfax County Department of Public Works and Environmental Services, 12000 Government Center Parkway, Fairfax, VA 22035.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 13, 2021	515525
Independence City.	City of Lynchburg, (21–03–0004P).	Mr. Reid A. Wodicka, Interim Manager, City of Lynchburg, 900 Church Street, Lynchburg, VA 24504.	City Hall, 900 Church Street, Lynchburg, VA 24504.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 13, 2021	510093

[FR Doc. 2021–19733 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2021–0022; OMB No. 1660–0062]

Agency Information Collection Activities: Proposed Collection; Comment Request; State/Local/Tribal Hazard Mitigation Plans

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, efforts and resources used by respondents to respond) and cost, and actual data collection instruments FEMA will use regarding the state, local, and tribal hazard mitigation plan creation process.

DATES: Comments must be submitted on or before November 15, 2021.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID FEMA–2021–0022. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID, and will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Smith, Planning & Safety Branch Chief, Planning, Safety, and Building Science Division, Risk Management Directorate, Federal Insurance and Mitigation Administration, FEMA; *Kathleen.Smith2@fema.dhs.gov* and (202) 646–4372. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5165, as amended by the Disaster Mitigation Act of 2000 (DMA 2000), Public Law 106–390, provides the framework for linking pre-and post-disaster mitigation planning and initiatives with public and private interests to ensure an integrated, comprehensive approach to disaster loss reduction. Title 44 CFR part 201 provides the mitigation planning requirements for State, local, Tribal, or Territorial governments to identify the natural hazards that impact them, to identify actions and activities to reduce any losses from hazards, and to establish a coordinated process to implement the plan, taking advantage of a wide range of resources.

Collection of Information

Title: State/Local/Tribal Hazard Mitigation Plans.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0062.

FEMA Forms: FEMA Form not applicable.

Abstract: In order to be eligible for certain types of Federal emergency management non-emergency assistance, state, local, Tribal or Territorial governments are required to have a current FEMA-approved hazard mitigation plan that meets the criteria established in 44 CFR part 201.

Affected Public: State, local, Tribal or Territorial government.

Estimated Number of Respondents: 224.

Estimated Number of Responses: 1,131.

Estimated Total Annual Burden Hours: 175,928.

Estimated Total Annual Respondent Cost: $10,291,788.

Estimated Respondents' Operation and Maintenance Costs: $30,760,976.

Estimated Respondents' Capital and Start-Up Costs: $10,497,648.

Estimated Total Annual Cost to the Federal Government: $1,936,738.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent L. Brown,

Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2021–19750 Filed 9–13–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0016]

Meetings To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) held two meetings to implement the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic.

DATES: The first meeting took place on Tuesday, September 7, 2021, from 1 to 3 p.m. Eastern Time (ET). The second meeting took place on Wednesday, September 8, 2021, from 1 to 3 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

SUPPLEMENTARY INFORMATION: Notice of these meetings is provided as required by section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8), and consistent with 44 CFR part 332.

The DPA authorizes the making of ''voluntary agreements and plans of action'' with representatives of industry, business, and other interests to help provide for the national defense.[1] The

[1] 50 U.S.C. 4558(c)(1).

President's authority to facilitate voluntary agreements with respect to responding to the spread of COVID–19 within the United States was delegated to the Secretary of Homeland Security in Executive Order 13911.[2] The Secretary of Homeland Security further delegated this authority to the FEMA Administrator.[3]

On August 17, 2020, after the appropriate consultations with the Attorney General and the Chairman of the Federal Trade Commission, FEMA completed and published in the **Federal Register** a ''Voluntary Agreement, Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic'' (Voluntary Agreement).[4] Unless terminated earlier, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID–19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID–19 (PPE Plan of Action)—was finalized.[5] The PPE Plan of Action established several sub-committees under the Voluntary Agreement, focusing on different aspects of the PPE Plan of Action.

On May 24, 2021, four additional plans of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Diagnostic Test Kits and other Testing Components to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Drug Products, Drug Substances, and Associated Medical Devices to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Devices to respond to COVID–19, and the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Gases to respond to COVID–19—were finalized.[6] These plans of action established several sub-committees under the Voluntary Agreement, focusing on different aspects of each plan of action.

The meetings are chaired by the FEMA Administrator or her delegate and attended by the Attorney General and the Chairman of the Federal Trade Commission or their delegates. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

Meeting Objectives: The objectives of the meetings are as follows:

1. Gather committee Participants and Attendees to ask targeted questions for situational awareness related to the active Plans of Action (PPE, Drug Products and Drug Substances, Diagnostic Test Kits, Medical Devices, and Medical Gases).
2. Establish priorities for COVID–19 response under the Voluntary Agreement.
3. Identify tasks that should be completed under the appropriate Sub-Committee.
4. Identify information gaps and areas that merit sharing (both from FEMA to the private sector and vice versa).

Meetings Closed to the Public: By default, the DPA requires meetings held to implement a voluntary agreement or plan of action be open to the public.[7] However, attendance may be limited if the Sponsor[8] of the voluntary agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c), such as trade secrets and commercial or financial information. The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that these meetings to implement the Voluntary Agreement involve matters which fall within the purview of matters described in 5 U.S.C. 552b(c) and the meetings are therefore closed to the public.

Specifically, these meetings to implement the Voluntary Agreement may require participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information allows for meetings to be closed pursuant to 5 U.S.C. 552b(c)(4). In addition, the success of the Voluntary Agreement depends wholly on the willing and enthusiastic participation of private sector participants. Failure to close these meetings could have a strong chilling effect on private sector participation and cause a substantial risk that sensitive information will be prematurely released to the public, leading to participants withdrawing their support from the Voluntary Agreement.

This would significantly frustrate the implementation of the Voluntary Agreement. Frustration of an agency's objective due to premature disclosure of information allows for the closure of a meeting pursuant to 5 U.S.C. 552b(c)(9)(B).

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–19748 Filed 9–13–21; 8:45 am]

BILLING CODE 9111–19–P

[2] 85 FR 18403 (Apr. 1, 2020).

[3] DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); DHS Delegation Number 09052 Rev. 00 (Jan. 3, 2017).

[4] 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

[5] *See* 85 FR 78869 (Dec. 7, 2020). *See also* 85 FR 79020 (Dec. 8, 2020).

[6] *See* 86 FR 27894 (May 24, 2021). *See also* 86 FR 28851 (May 28, 2021).

[7] *See* 50 U.S.C. 4558(h)(7).

[8] ''[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.'' 50 U.S.C. 4558(h)(7).

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2163]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Homeland Security (DHS).

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before December 13, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2163, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Broward County, Florida and Incorporated Areas **Project: 15–04–4157S Preliminary Date: December 31, 2019 and February 25, 2021**	
City of Coconut Creek	Utilities and Engineering Building, 5295 Johnson Road, Coconut Creek, FL 33073.
City of Cooper City	Building Department, 9090 Southwest 50th Place, Cooper City, FL 33328.
City of Dania Beach	City Hall, 100 West Dania Beach Boulevard, Dania Beach, FL 33004.
City of Deerfield Beach	Engineering Department, 200 Goolsby Boulevard, Deerfield Beach, FL 33442.
City of Fort Lauderdale	Department of Sustainable Development, 700 Northwest 19th Avenue, Fort Lauderdale, FL 33311.
City of Hallandale Beach	Public Works Department, 630 Northwest 2nd Street, Hallandale Beach, FL 33009.
City of Hollywood	Public Utilities Department, 1621 North 14th Avenue, Hollywood, FL 33022.
City of Lauderdale Lakes	Development Services Department, 3521 Northwest 43rd Avenue, Lauderdale Lakes, FL 33319.
City of Lauderhill	Engineering/GIS Division, 5581 West Oakland Park Boulevard, Lauderhill, FL 33313.
City of Lighthouse Point	Public Works Department, 4730 Northeast 21st Terrace, Lighthouse Point, FL 33064.
City of Margate	Department of Environmental and Engineering Services, 901 Northwest 66th Avenue, Suite A, Margate, FL 33063.

Community	Community map repository address
City of Miramar	Public Works Department, 13900 Pembroke Road, Building L, Miramar, FL 33027.
City of Oakland Park	Planning and Zoning Division, 5399 North Dixie Highway, Suite 3, Oakland Park, FL 33334.
City of Pembroke Pines	Engineering Division, 8300 South Palm Drive, Pembroke Pines, FL 33025.
City of Plantation	Engineering Department, 401 Northwest 70th Terrace, Plantation, FL 33317.
City of Pompano Beach	Building Department, 100 West Atlantic Boulevard, 3rd Floor, Pompano Beach, FL 33060.
City of Sunrise	Engineering Division, 1601 Northwest 136th Avenue, Building A, Sunrise, FL 33323.
City of Tamarac	Public Works and Engineering Building Department, 6011 Nob Hill Road, 1st Floor, Tamarac, FL 33321.
City of West Park	City Hall, 1965 South State Road 7, West Park, FL 33023.
City of Weston	Public Works Department, 2599 South Post Road, Weston, FL 33327.
City of Wilton Manors	Community Development Services, 2020 Wilton Drive, 2nd Floor, Wilton Manors, FL 33305.
Seminole Tribe of Florida	Seminole Tribe of Florida Headquarters, 6300 Stirling Road, Hollywood, FL 33024.
Town of Davie	Building and Zoning Division, 6591 Orange Drive, Davie, FL 33314.
Town of Hillsboro Beach	Town Hall, 1210 Hillsboro Mile, Hillsboro Beach, FL 33062.
Town of Lauderdale-By-The-Sea	Public Works Department, 4501 North Ocean Drive, Lauderdale-By-The-Sea, FL 33308.
Town of Pembroke Park	Engineering Department, 3150 Southwest 52nd Avenue, Pembroke Park, FL 33023.
Town of Southwest Ranches	Public Works Department, 13400 Griffin Road, Southwest Ranches, FL 33330.
Unincorporated Areas of Broward County	Broward County Government Center West, 1 North University Drive, Plantation, FL 33324.
Village of Lazy Lake	Village Hall, 2250 Lazy Lane, Lazy Lake, FL 33305.
Village of Sea Ranch Lakes	Village Hall, 1 Gatehouse Road, Sea Ranch Lakes, FL 33308.

[FR Doc. 2021–19734 Filed 9–13–21; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2021–0020; OMB No. 1660–0131]

Agency Information Collection Activities: Proposed Collection; Comment Request; Threat and Hazard Identification and Risk Assessment (THIRA)—Stakeholder Preparedness Review (SPR) Unified Reporting Tool

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning this annual requirement for the U.S. Department of Homeland Security (DHS), FEMA to identify current capability levels for all States, Tribes, territories, and urban areas receiving non-disaster preparedness grant funds administered by DHS.

DATES: Comments must be submitted on or before November 15, 2021.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID FEMA–2021–0020. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID, and will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sharon Frederick, Section Chief, Community Risk and Capability Assessments Section, National Assessments and Integration Division, FEMA, at *Sharon.Frederick@fema.dhs.gov* or (202) 368–5156. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This package is a revision to the collection titled the Threat and Hazard Identification and Risk Assessment (THIRA)—Stakeholder Preparedness Review (SPR) Unified Reporting Tool under OMB Control Number 1660–0131. The Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA) (Pub. L. 109–295), as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53), established an annual requirement for the 56 states and territories to submit a State Preparedness Report. Because this reporting now includes States, Tribes, territories, and urban areas, FEMA has revised the name of the collection as the Stakeholder Preparedness Review (SPR). States, Tribes, territories, and urban areas receiving non-disaster preparedness grant funds administered by DHS submit the SPR annually, and this encompasses the requirements of the previous State Preparedness Report, while reflecting the updated methodology reporting needs. The legislation requires a report on current capability levels and a description of targeted capability levels from all States, Tribes, territories, and urban areas receiving non-disaster preparedness grant funds administered by DHS. Each

report must also include a discussion of the extent to which target capabilities identified in the applicable state homeland security plan and other applicable plans are unmet, and an assessment of resources needed to meet the preparedness priorities established under PKEMRA Section 646(e), including: (i) An estimate of the amount of expenditures required to attain the preparedness priorities; and (ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities. To meet this requirement, States, Tribes, territories, and urban areas first identify capability targets through THIRA and then assess against these targets in the SPR. Through the SPR, these jurisdictions estimate their current capabilities, identify and describe gaps between current capabilities and targets, indicate their intended approach for addressing gaps in the future, and report on the impact of Federal grant dollars in building and sustaining capabilities. It is also important to note that completing the THIRA and SPR are allowable expenses under the grant awards.

Collection of Information

Title: Threat and Hazard Identification and Risk Assessment (THIRA)—Stakeholder Preparedness Review (SPR) Unified Reporting Tool.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0131.

FEMA Forms: FEMA Form FF–008–FY–21–106, Threat and Hazard Identification and Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) Unified Reporting Tool (formerly FEMA Forms 008–0–19 and 008–0–20); FEMA Form FF–008–FY–21–107, THIRA/SPR After Action Conference Calls (formerly FEMA Form 008–0–23).

Abstract: The assessment is structured by the 32 core capabilities from the 2015 National Preparedness Goal. States, territories, urban areas, and tribes provide information on capability targets, their current capability levels and capability gaps for each core capability. Respondent States, Tribes, territories, and urban areas gather the information and complete the THIRA and SPR following the ''Comprehensive Preparedness Guide (CPG) 201, Third Edition.''

Affected Public: State, Territory, Local or Tribal Government.

Estimated Number of Respondents: 128.

Estimated Number of Responses: 128.

Estimated Total Annual Burden Hours: 88,779.

Estimated Total Annual Respondent Cost: $4,914,805.

Estimated Respondents' Operation and Maintenance Costs: $21,337,885.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $2,312,561.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent L. Brown,

Acting, Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2021–19732 Filed 9–13–21; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7041–N–04]

60-Day Notice of Proposed Information Collection: Older Adult Home Modification Evaluation

AGENCY: Office of the Assistant Secretary for Policy Development and Research, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The U.S. Department of Housing and Urban Development (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:* November 15, 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: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@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: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. 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. Guido.

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: Older Adult Home Modification Evaluation.

OMB Approval Number: 252–New.

Type of Request: New request.

Form Number: N/A.

Description of the need for the information and proposed use: Congress authorized HUD to make grants to experienced non-profit organizations, States, local governments, or public housing agencies for safety and functional home modification repairs to meet the needs of low-income elderly homeowners to enable them to remain in their primary residence. This information collection supports HUD's evaluation on the effectiveness of the grants. HUD will both evaluate grantee implementation and the impact of the modification on the client recipients whose homes are modified.

Respondents: Office of Lead Hazard Control and Healthy Homes Grantees and Recipients for home modifications.

Total Burden Estimate: The table below reflects our estimate of the burden on the grantees and the home modification recipients.

Respondent's Obligation: Grantees' participation in the Evaluation is mandatory, as it is a stipulation for receiving grant funds. Clients' participation in the Evaluation is voluntary and participation does not affect their eligibility to receive home modifications.

Legal Authority: The data collection is conducted under Title 12, United States Code, Section. 1701z and Section 3507 of the Paperwork Reduction Act of 1995, 44, U.S.C., 35, as amended.

ESTIMATED TIME AND COSTS TO GRANTEE RESPONDENTS

Information collection	Respondents per annum	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Client Eligibility Documentation Form *	4,478	1	0.08	373	$33.46	$12,485
Lost-to-Project Form *	2,790	1	0.08	233	33.46	7,780
OAHM Program Documentation of Work Completed Form	2,250	1	0.50	1,125	33.46	37,643
Grantee Process Evaluation Online Survey *	32	1	4.00	128	33.46	4,283
Grantee Site Visit Interview Guide *	5.3	2	2.00	21	33.46	714
Total	9,555		6.67	1,880		62,904
Total Over 3 Years			20.00	5,640		188,712

* The 32 grantees will be expected to complete the Evaluation Client Eligibility Documentation form and the Lost-to-Project form for all prospective clients. One program manager from each of the 32 grantees will complete the Grantee Process Evaluation Online Survey each year. The Contractor will administer Grantee Site Visit Interview Guide to up to two grantee representatives at up to 16 site visits.

ESTIMATED TIME AND COSTS TO CLIENT RECIPIENT RESPONDENTS

Information collection	Respondents per annum	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response [e]	Annual hourly cost per response
OAHM Client Program Questionnaire Baseline	3,000	1	0.10	300	$11.31	$3,393
OAHM Client Program Questionnaire Post-modification	1,688	1	0.10	169	11.31	1,909
OAHM Program Evaluation Informed Consent	2,250	1	0.25	563	11.31	6,362
Home Hazard Checklist Baseline	3,000	1	0.42	1,250	11.31	14,138
Home Hazard Checklist Post-modification	1,688	1	0.42	703	11.31	7,952
OAHM Client Impact Evaluation Interview Baseline	2,250	1	0.33	750	11.31	8,483
OAHM Client Impact Evaluation Interview Post-modification	1,688	1	0.33	563	11.31	6,362
Script to Schedule Client Process Evaluation Interview	188	1	0.08	16	11.31	177
Client Process Evaluation Interview	169	1	0.50	84	11.31	954
Total Annual			2.53	4,397		49,729
Total Over 3 Years			7.60	13,191		149,186

* Over the three-year period of performance for the OAHMP grant, we expect up to 9,000 clients may apply for services. Of these potential clients, we conservatively estimate 33% (or 4,433) will be determined ineligible, 25% (or 2,250) will not consent to participate in the Evaluation, and another 25% (or 1,688) will be lost to Evalution follow-up six- to nine-months after the homes have received modifications. Of the 5,625 homes expected to receive modifications, up to 563 clients are expected to be contacted to participate in the Client Process Evaluation Interview and up to 506 are anticipated to participate.

ESTIMATED COMBINED TIME AND COSTS

	Annualized total grantee	Annualized total client	Annualize total combined	Total number of years	Total over three years
Cost	$62,904	$49,729	$112,633	3	$337,898
Hours	1,880	4.397	6,277	3	18,831

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.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

The General Deputy Assistant Secretary for Policy Development and Research, Todd M. Richardson, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Nacheshia Foxx,

Federal Liaison for the Department of Housing and Urban Development.

[FR Doc. 2021–19715 Filed 9–13–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.FR–6287–N–01]

Agenda and Notice of Public Meetings of the Moving to Work Research Advisory Committee

AGENCY: Office of the Assistant Secretary for Public and Indian Housing and Office of the Assistant Secretary for Policy Development and Research, Housing and Urban Development (HUD).

ACTION: Notice of two federal advisory committee meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda for two meetings of the Moving to Work (MTW) Research Advisory Committee (Committee). The Committee meetings will be held via a virtual web-based platform and an option for a call-in number on Thursday, October 14, 2021, and Thursday, October 28, 2021. The meetings are open to the public and are accessible to individuals with disabilities.

DATES: The virtual meetings will be held on October 14, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT) and on October 28, 2021, from 2:00 p.m. to 5:00 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Eva Fontheim, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 4126, Washington, DC 20410, telephone (202) 402–3461 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the Federal Relay Service at (800) 877–8339 (this is a toll-free number) or can email: *MTWAdvisoryCommittee@hud.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2). The Committee was established on May 2, 2016, to advise HUD on specific policy proposals and methods of research and evaluation related to the expansion of the MTW demonstration to an additional 100 Public Housing Authorities (PHAs). See 81 FR 24630. The Committee met several times since 2016 to discuss areas of policy focus for study within the MTW expansion. Using the advice of the Committee, the one hundred Expansion MTW PHAs will be added in four to five cohorts. To date, 31 PHAs have been selected to participate in the MTW Flexibility for Smaller PHAs Cohort, all consist of high-performing PHAs that administer 1,000 or fewer Housing Choice Vouchers (HCV) and public housing units combined. An additional 10 PHAs have been selected to participate in the Stepped and Tiered Rent Cohort, consisting of PHAs with 1,001 or more public housing and HCV units. In order to ensure adequate sample size in the Stepped and Tiered Rent Cohort, the selected PHAs were required to have 1,000 or more existing non-elderly, non-disabled public housing and/or HCV households. This cohort will study different rent models that may or may not be income-based, to include tiered rents, and/or stepped-up rents. The Landlord Incentives Cohort, application deadline is October 15, 2021, will study landlord incentives in the housing choice voucher program.

HUD is committed to implementing the MTW Expansion in a way that is responsive to the economic realities and current needs of low-income families; therefore, the Work Requirements Cohort has been rescinded. For this reason, HUD is reconvening the Committee to explore alternative policies to study through the MTW Expansion to ensure that there are 100 designated MTW PHAs. The minutes of all previous meetings are available on the HUD website at: *https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/expansion/rac.*

HUD will convene two virtual meetings to explore which policies to study in future MTW cohorts.

The agenda for the meetings are as follows:

October 14, 2021—1:00 p.m.–4:00 p.m. EDT

I. Welcome and Introductions
II. Update on the MTW Expansion
III. Review of the Agenda
IV. Background and Status Update
  a. Revisit Guiding Principles
  b. Overall status of the Expansion
  c. Small PHA Flexibility Cohort
  d. Tiered and Stepped Rent Cohort
  e. Landlord Incentives Cohort
  f. Other Cohorts Previously Discussed
  g. Questions
V. Goal for this Meeting: Discuss potential topics for remaining cohorts
  a. Framing
  b. Overview of options
  i. Asset Building
  ii. Sponsor-Based Housing
  iii. Project-Based Voucher Flexibilities
  iv. MTW Flexibility (small/medium PHAs)
  v. Discussion of other big idea program reforms HUD may want to test
  vi. Other ideas from Committee
VI. Open Discussion
VII. BREAK
VIII. Continued Open Discussion
IX. Public Input
X. Committee Debrief
XI. Prioritize and Rank
XII. Summary of Discussion
XIII. Discuss Next Steps and Adjourn

October 28, From 2:00–5:00 p.m. EDT

I. Welcome and Introductions
II. Revisit Guiding Principles
III. Review of October 14, 2021 Meeting
IV. Goal for this Meeting—Discuss and provide recommendations for two new cohort studies (including research design and specific policies).
V. Discussion: Policy Topics Selected at October 14, 2021 Meeting
  a. Key research questions
  b. Considerations for structuring the Cohort
  c. Considerations for evaluating the Cohort
V. BREAK
VI. Public Input
VII. Committee Debrief
VIII. Summary of Discussion
IX. Discuss Next Steps and Adjourn

Members of the public will have an opportunity to provide feedback during

the calls. The total amount of time for such feedback will be limited to ensure pertinent Committee business is completed. Further, the amount of time allotted to each individual commenter will be limited and will be allocated on a first-come first-served basis by HUD. If the number of commenters exceeds the available time, HUD may ask for the submission of comments via email.

The public is invited to join the October 14th meeting by clicking: *https://ems8.intellor.com/login/840677.* Follow the prompts to connect audio by computer or telephone. If you are unable to join the web conference, attendees may dial 1–888–251–2949; Access Code: 5190893#.

The public is invited to join the October 28th meeting by clicking *https://ems8.intellor.com/login/840685.* Follow the prompts to connect audio by computer or telephone. If you are unable to join the web conference, attendees may dial 1–888–251–2949; Access Code: 1252894#.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–877–8339 and providing the FRS operator with the Conference Call Toll-Free Number: 1–888–251–2949.

Records and documents discussed during the meetings, as well as other information about the work of this Committee, will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicPage* by clicking on ''Agencies/Committees'' at the top of the tool bar. These materials will also be available on the MTW Demonstration's expansion web page at: *https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/expansion/rac.*

Records generated from these meetings may also be inspected and reproduced at the U.S. Department of Housing Development Headquarters in Washington, DC as they are available and when HUD is able to, both before and after the meetings.

Outside of the work of this Committee, information about HUD's broader implementation of the MTW expansion, as well as additional opportunities for public input, can be found on the MTW Demonstration's expansion web page at: *https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/expansion.*

Dominique Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

Todd Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2021–19765 Filed 9–13–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21MR00G74E400; OMB Control Number 1028–NEW]

Agency Information Collection Activities; Nonindigenous Aquatic Species eDNA Data Submission Forms

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before November 15, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–NEW in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Matthew Neilson by email at *mneilson@usgs.gov,* or by telephone at (352) 264–3519. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: America is under siege by many harmful non-native species of plants, animals, and microorganisms. More than 6,500 nonindigenous species are now established in the United States, posing risks to native species, valued ecosystems, and human and wildlife health. These invaders extract a huge cost, an estimated $120 billion per year, to mitigate their harmful impacts. The current annual environmental, economic, and health-related costs of invasive species exceed those of all other natural disasters combined.

Through its Invasive Species Program (*http://www.usgs.gov/ecosystems/invasive_species/*), the USGS plays an important role in federal efforts to combat invasive species in natural and semi-natural areas through early detection and assessment of newly established invaders; monitoring of invading populations; and improving understanding of the ecology of invaders and factors in the resistance of habitats to invasion. The USGS provides the tools, technology, and information supporting efforts to prevent, contain, control, and manage invasive species nationwide. To meet user needs, the USGS also develops methods for compiling and synthesizing accurate and reliable data and information on invasive species for inclusion in a distributed and integrated web-based information system.

As part of the USGS Invasive Species Program, the Nonindigenous Aquatic

Species (NAS) database (*http://nas.er.usgs.gov/*) functions as a repository and clearinghouse for occurrence information on nonindigenous aquatic species from across the United States. It contains locality information on approximately 1,300 species of vertebrates, invertebrates, and vascular plants introduced since 1850. Taxa include foreign species as well as those native to North America that have been transported outside of their natural range. The NAS website provides immediate access to new occurrence records through a real-time interface with the NAS database. Visitors to the website can use a set of predefined queries to obtain lists of species according to state or hydrologic basin of interest. Fact sheets, distribution maps, and information on new occurrences are continually posted and updated. Dynamically generated species distribution maps show the spatial accuracy of the locations reported, population status, and links to more information about each report.

Environmental DNA (eDNA) comprises genetic material that has been sloughed, excreted, or otherwise released into the environment and can be detected in water, soil, and air. For aquatic organisms, this includes skin, excrement, mucus, saliva, blood, and gametes. Collection of environmental samples can be screened for the presence of eDNA, allowing for the detection of low-density organisms before detectability by traditional sampling methods. The combination of traditional specimen sightings and eDNA detections can provide more complete species distribution records and significantly improve the ability to respond quickly to new invasions as part of an early detection rapid response (EDRR) system. Working with interagency eDNA experts, the NAS database has used a consensus method to identify and develop community data standards for integrating eDNA detection data.

Title of Collection: Nonindigenous Aquatic Species eDNA Data and Metadata Submission Forms.

OMB Control Number: 1028–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Federal, state, and local government employees; university research personnel.

Total Estimated Number of Annual Respondents: We estimate approximately 25 total respondents per year.

Total Estimated Number of Annual Responses: We estimate a total of 35 responses per year.

Estimated Completion Time per Response: We estimate a total of 90 minutes (1.5 hours) per response.

Total Estimated Number of Annual Burden Hours: We estimate a total of 52.5 annual hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dionne Duncan-Hughes,

USGS Information Collection Clearance Officer.

[FR Doc. 2021–19794 Filed 9–13–21; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM931000.L14400000.BJ0000 212L1109AF]

Notice of Filing of Plats of Survey; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Oklahoma.

SUMMARY: On September 29, 2020, the BLM published a notice in the **Federal Register** entitled, ''Notice of Filing of Plats of Survey; New Mexico; Oklahoma.'' The official filing of the four Oklahoma supplemental plats listed below is hereby stayed, pending consideration of all protests.

DATES: Upon publication of this **Federal Register** Notice, the plats described below will be stayed.

ADDRESSES: These plats will be available for inspection in the New Mexico Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico, 85004–4427. Protests of a survey should be sent to the New Mexico Director at the above address.

FOR FURTHER INFORMATION CONTACT: Michael J. Purtee, Chief Cadastral Surveyor; (505) 761–8903; *mpurtee@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Purtee during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Indian Meridian, Oklahoma

The supplemental plat, within Township 10 North, Range 27 East, section 4, accepted July 8, 2020, for Group 224, Oklahoma.

The supplemental plat, within Township 10 North, Range 27 East, section 5, accepted July 8, 2020, for Group 224, Oklahoma.

The supplemental plat, in two sheets, within Township 10 North, Range 27 East, section 19, accepted August 13, 2020, for Group 223, Oklahoma.

The supplemental plat, within Township 11 North, Range 27 East, section 33, accepted July 8, 2020, for Group 224, Oklahoma.

The official filing of these supplemental plats is hereby stayed, pending consideration of all protests.

Authority: 43 U.S.C. Chap. 3.

Michael J. Purtee,

Chief Cadastral Surveyor, BLM New Mexico.

[FR Doc. 2021–19802 Filed 9–13–21; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1281]

Certain Video Security Equipment and Systems, Related Software, Components Thereof, and Products Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 9, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Motorola Solutions, Inc. of Chicago, Illinois; Avigilon Corporation of Canada; Avigilon Fortress Corporation of Canada; Avigilon Patent Holding 1 Corporation of Canada; and Avigilon Technologies Corporation of Canada. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain video security equipment and systems, related software, components thereof, and products containing same by reason of infringement of certain claims of U.S. Patent No. 7,868,912 (''the '912 patent''); U.S. Patent No. 10,726,312 (''the '312 patent''); and U.S.

Patent No. 8,508,607 (''the '607 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION: *Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 8, 2021, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–4, and 6–36 of the '912 patent; claims 1–16 of the '312 patent; and claims 1–4, 6–7, 10–13, 15–16, 19–21, 25–26, and 29 of the '607 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''IP security cameras and systems, as well as the software and components of those cameras and systems'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Motorola Solutions, Inc., 500 W. Monroe St., Chicago, IL 60661

Avigilon Corporation, 555 Robson St. 3rd Floor, Vancouver, British Columbia, V6B 1A6, Canada

Avigilon Fortress Corporation, 555 Robson St. 3rd Floor, Vancouver, British Columbia, V6B 1A6, Canada

Avigilon Patent Holding 1 Corporation, 555 Robson St. 3rd Floor, Vancouver, British Columbia, V6B 1A6, Canada

Avigilon Technologies Corporation, 555 Robson St. 3rd Floor, Vancouver, British Columbia, V6B 1A6, Canada

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Verkada Inc., 405 E 4th Avenue, San Mateo, California 94401

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 8, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–19740 Filed 9–13–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Evangelical Community Hospital, et ano; Response to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the Response to Public Comments on the Proposed Final in *United States* v. *Evangelical Community Hospital and Geisinger Health,* Civil Action No. 4:20–cv–01383–MWB, which was filed in the United States District Court for the Middle District of Pennsylvania on August 31, 2021, together with a copy of the five comments received by the United States.

A copy of the comments and the United States' response to the comments is available at *https://www.justice.gov/atr/case/us-v-geisinger-health-and-evangelical-community-hospital.* Copies of the comments and the United States' response are available for inspection at the Office of the Clerk of the United States District Court for the Middle District of Pennsylvania. Copies of these materials may also be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

United States District Court for the Middle District of Pennsylvania

United States of America, Plaintiff, v. Evangelical Community Hospital and Geisinger Health, Defendants.

Civil Action No.: 4:20–cv–01383–MWB

Response of Plaintiff United States

To Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the ''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States submits this response to the five public

comments received regarding the proposed Final Judgment, as amended, in this case. After carefully considering the submitted comments, the United States continues to believe that the amended proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. The United States will move the Court for entry of the amended proposed Final Judgment (Dkt. 51–1) after the public comments and this response have been published pursuant to 15 U.S.C. 16(d).

I. Procedural History

On February 1, 2019, Defendant Geisinger Health (''Geisinger'') and Defendant Evangelical Community Hospital (''Evangelical'') entered into a partial-acquisition agreement (the ''Collaboration Agreement'') pursuant to which Geisinger would, among other things, acquire 30% of Evangelical. After a thorough and comprehensive investigation, the United States filed a civil antitrust Complaint (Dkt. 1) on August 5, 2020, seeking to rescind and enjoin the Collaboration Agreement, which Defendants had twice amended before the United States filed its Complaint.

On March 3, 2021, the United States filed a proposed Final Judgment (Dkt. 45–2) and a Stipulation and Order (Dkt. 45–1), signed by the parties, that consents to entry of the proposed Final Judgment after compliance with the requirements of the APPA. At the same time, the United States filed a Competitive Impact Statement, describing the transaction and the proposed Final Judgment (Dkt. 46). The Court entered the Stipulation and Order on March 10, 2021 (Dkt. 47).

On March 10, 2021, the United States published the Complaint, proposed Final Judgment, and Competitive Impact Statement in the **Federal Register**, *see* 15 U.S.C. 16(b)–(c); 86 FR 13,735 (March 10, 2021), and caused notice regarding the same, together with directions for the submission of written comments relating to the proposed Final Judgment, to be published in the *Washington Post* on March 8–14 and in *The Daily Item* on March 9–14 and March 16.

On May 17, 2021, the United States and Defendants filed a Joint Notice of Amended Proposed Final Judgment (the ''Joint Notice''), attaching an amended proposed Final Judgment (Dkts. 51, 51–1). As stated in the Joint Notice, the amended proposed Final Judgment removed provisions from the Collaboration Agreement (including its attachments) that did not conform with the proposed Final Judgment and corrected typographical errors in those documents. The amended proposed Final Judgment is identical in all respects to the original proposed Final Judgment except for a change to the definition of the ''Amended and Restated Collaboration Agreement'' to reflect the date of execution and title of the revised, updated agreement—the Second Amended and Restated Collaboration Agreement (the ''Amended Agreement'').

The 60-day period for public comment ended on May 17, 2021. The United States determined that it would consider any additional comments that were received by June 7, 2021, in order to afford the public time to review the Joint Notice and the amended proposed Final Judgment. The United States received five comments. As required by the APPA, the comments, with the authors' addresses removed, and this response will be published in the **Federal Register**.

II. Standard of Judicial Review

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in APPA settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not ''make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should bear in mind the *flexibility* of the public interest inquiry: The court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due

respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' (internal citations omitted)); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged.''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent judgments proposed by the United States in antitrust enforcement, Public Law 108–237, 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene,'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the APPA). This language explicitly wrote into the statute what Congress intended when it first enacted the APPA in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

III. The Harm Alleged in the Complaint and the Amended Proposed Final Judgment

The amended proposed Final Judgment is the culmination of a thorough, comprehensive investigation conducted by the Antitrust Division of the United States Department of Justice. Based on the evidence gathered during the investigation, the United States concluded that the likely effect of Geisinger's partial acquisition of Evangelical resulting from the Collaboration Agreement would be to substantially lessen competition and unreasonably restrain trade in the market for the provision of inpatient general acute-care services in a six-county region in central Pennsylvania. The partial acquisition was not a passive investment by Geisinger. The Collaboration Agreement created certain entanglements between Defendants that provided opportunities for Geisinger to influence Evangelical, which would likely lead to higher prices, lower quality, and reduced access to inpatient general acute-care services in central Pennsylvania. Accordingly, the United States filed a civil antitrust lawsuit that alleged that certain features of the Collaboration Agreement, taken together, were likely to substantially lessen competition between Defendants, and sought to rescind and enjoin the Collaboration Agreement because it violated Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 7 of the Clayton Act, 15 U.S.C. 18.

The amended proposed Final Judgment provides an effective and appropriate remedy for the likely competitive harm the United States alleges would result from the Collaboration Agreement and maintains Evangelical's independence as a competitor in the market for inpatient general acute-care services in central Pennsylvania. The amended proposed Final Judgment restores competition by: (1) Capping Geisinger's ownership interest in Evangelical; (2) preventing Geisinger from exerting control or influence over Evangelical through the mechanisms alleged in the Complaint; and (3) requiring an antitrust compliance program and prohibiting Geisinger and Evangelical from sharing competitively sensitive information—all of which restore Defendants' incentives to compete with each other on quality, access, and price. At the same time, the amended proposed Final Judgment permits Evangelical to use Geisinger's passive investment to fund specific projects that will benefit patients and the community.

A. Reduction of Ownership Interest and Investment

The amended proposed Final Judgment caps Geisinger's ownership interest in Evangelical to a 7.5% passive investment and prohibits Geisinger from increasing its ownership interest in Evangelical.[1] The amended proposed Final Judgment permits Evangelical to spend the money that it has already received from Geisinger only on two specific projects that will benefit patients in central Pennsylvania: (1) Improving Evangelical's patient rooms and (2) sponsoring a local recreation and wellness center.[2] It also prohibits Geisinger from making any loan, providing any line of credit, or providing a guaranty to Evangelical against any financial loss.[3] These provisions of the amended proposed Final Judgment, along with the others described below, eliminate mechanisms for Geisinger to influence Evangelical through its investment and restore the incentives of both hospitals to compete with each other for the benefit of patients and health insurers.

B. Prohibitions Against Geisinger's Influence and Control Over Evangelical

The amended proposed Final Judgment maintains Evangelical's independence as a competitor in the relevant market because it prevents Geisinger from exercising influence over

[1] Amended proposed Final Judgment ¶ IV.B.2.
[2] Amended proposed Final Judgment ¶ V.A.
[3] Amended proposed Final Judgment ¶¶ IV.B.3, 6.

Evangelical through participation in Evangelical's governance, management, or strategic decision-making. For example, the amended proposed Final Judgment prohibits Geisinger from appointing any directors to Evangelical's board of directors and prohibits Geisinger from obtaining any management or leadership position with Evangelical that would provide Geisinger with the ability to influence its strategic or competitive decision-making.[4] In addition, it prohibits Geisinger from controlling Evangelical's expenditure of funds.[5] The amended proposed Final Judgment also prevents Geisinger from having any right of first offer or first refusal regarding any proposal or offer made to Evangelical, such as proposals to enter into future joint ventures with other entities or to enter into competitively significant asset sales.[6] In addition, the amended proposed Final Judgment prohibits Defendants from entering into joint ventures with each other or making changes to the Amended Agreement without obtaining the approval of the United States.[7] The amended proposed Final Judgment also prohibits Geisinger from licensing its information technology systems to Evangelical without the consent of the United States, except as expressly permitted in the amended proposed Final Judgment.[8]

C. Compliance Program and Prohibitions Against Sharing Competitively Sensitive Information

The amended proposed Final Judgment eliminates the provisions of the Collaboration Agreement that would have provided Geisinger with the ability to access Evangelical's competitively sensitive information and prohibits Defendants from providing each other with non-public information, including information about strategic projects being considered by either Defendant.[9] It also prevents Defendants from having access to each other's financial records and requires that Defendants implement and maintain a firewall to prevent them from sharing competitively sensitive information.[10]

In addition, the amended proposed Final Judgment requires Defendants to institute a robust antitrust compliance program.[11] Finally, the amended proposed Final Judgment provides the United States with the ability to investigate Defendants' compliance with the Final Judgment and expressly retains and reserves all rights for the United States to enforce provisions of the Final Judgment.[12]

In sum, the amended proposed Final Judgment prevents Geisinger from increasing its ownership interest in Evangelical, eliminates the anticompetitive portions of the Collaboration Agreement that were challenged in the Complaint, and prevents Defendants from reinstituting those anticompetitive provisions. It restores Defendants' incentives to compete with each other on quality, access, and price, and maintains Evangelical as an independent competitor for inpatient general acute-care services in central Pennsylvania.

IV. Summary of Public Comments and the United States' Response

The United States received five public comments. Four comments are from community members who live in central Pennsylvania. The fifth comment is from a competitor to Geisinger and Evangelical, the University of Pittsburgh Medical Center (''UPMC''). UPMC is an integrated healthcare system that operates two hospitals and UPMC Health Plan, an insurance company that sells commercial health insurance in competition with a Geisinger-operated insurance company, Geisinger Health Plan, in central Pennsylvania.

The United States summarizes the comments and responds below. The comments do not support a finding that the amended proposed Final Judgment is not in the public interest, and the modifications that UPMC proposes to the amended proposed Final Judgment are not necessary or appropriate to address the loss of competition alleged in the Complaint.

A. The Amended Proposed Final Judgment Resolves the Concerns Expressed by Four Community Members

Four community members express concern that, if Geisinger were allowed to control Evangelical, it could negatively affect patient care and reduce choices for consumers. One commenter states that ''Evangelical can give patients the best care by remaining an independent community hospital.''[13] Another commenter states that she has ''all of [her] care given at Evangelical,'' and ''would hate to have that spoiled'' by having Evangelical controlled by Geisinger, and believes that they should not merge.[14] Another commenter notes that prior mergers in the area left the community with ''few options [for] quality and affordable healthcare'' and urges the United States ''to make sure [that] people looking for good affordable health care have that choice.''[15] The United States agrees with these commenters that consumers are best served by preserving Evangelical's independence, which is why the United States initiated this litigation and has required Geisinger to relinquish its ability to influence or control Evangelical through the terms of the amended proposed Final Judgment. Because the amended proposed Final Judgment preserves Evangelical's independence, and prohibits Geisinger from acquiring Evangelical, it fully addresses these commenters' concerns. These comments, therefore, provide no basis to conclude that the amended proposed Final Judgment is not in the public interest.

One of the community members expresses concern about Geisinger's 7.5% interest in Evangelical and raises questions about Evangelical's financial circumstances. The commenter also notes that the settlement addresses harm the United States alleged with respect to inpatient services and asks what would prevent Geisinger from expanding outpatient services to compete with those offered by Evangelical.[16] This commenter does not ask the Court to reject the proposed remedy and does not propose any specific measures to be incorporated into the amended proposed Final Judgment.

This comment likewise provides no basis to conclude that the amended proposed Final Judgment is not in the public interest. First, as discussed above, the amended proposed Final Judgment ensures that Evangelical will remain an independent competitor by capping Geisinger's interest in Evangelical and stripping Geisinger of the ability to influence or control Evangelical. Second, the proposed remedy does not place Evangelical on insecure financial footing as Evangelical was in a strong financial position before it executed the agreement with Geisinger (*see* Complaint ¶ 65), and nothing in the amended proposed Final Judgment changes its financial status.

[4] Amended proposed Final Judgment ¶¶ IV.B.1, 4.

[5] Amended proposed Final Judgment ¶ IV.B.6.

[6] Amended proposed Final Judgment ¶ IV.B.5.

[7] Amended proposed Final Judgment ¶¶ IV.E, F.

[8] Amended proposed Final Judgment ¶ IV.B.7.

[9] Amended proposed Final Judgment ¶ IV.G.

[10] Amended proposed Final Judgment ¶ IV.G, VII.A.

[11] Amended proposed Final Judgment § VI.

[12] Amended proposed Final Judgment §§ VIII, XI.

[13] Comment from Sandy Young, attached as Exhibit E.

[14] Comment from Carol Barsh, attached as Exhibit A.

[15] Comment from Keith Young, attached as Exhibit D.

[16] Comment from Dr. Steve Karp, attached as Exhibit B. Dr. Karp's comment also raised questions about Evangelical's receiving financial support for information technology systems from Geisinger. This concern was also raised by UPMC and is discussed in Section IV.B.2, *infra*.

Third, the commenter's concern about Geisinger expanding in the outpatient market is outside the scope of this Court's review under the APPA as the United States did not allege harm in an outpatient services market. *See Microsoft,* 56 F.3d at 1459; *U.S. Airways,* 38 F. Supp. 3d at 76. It is also misplaced as the proposed remedy maintains Evangelical's independence and preserves Defendants' incentives to compete for both inpatient and outpatient services. Indeed, if Geisinger expands outpatient services to compete with those offered by Evangelical, that would increase competition and benefit patients in central Pennsylvania.

B. UPMC's Comment Provides No Basis To Conclude That the Amended Proposed Final Judgment Is Not in the Public Interest

UPMC's comment raises concerns regarding two aspects of the Amended Agreement.[17] First, UPMC questions provisions that establish the terms under which Evangelical, a small community hospital, provides medical services to patients insured by Geisinger Health Plan (''GHP''), a health insurance company owned by Geisinger. UPMC claims these provisions will reduce competition between Evangelical and Geisinger to provide medical and hospital services and create an incentive for Evangelical to charge higher prices to third-party insurance companies such as UPMC Health plan (UPMC, like Geisinger, is vertically integrated, offering both health insurance and hospital services). Second, UPMC expresses concerns about Geisinger's providing subsidized electronic medical records systems and associated support to Evangelical, as permitted in Paragraph V.B of the amended proposed Final Judgment (the ''IT Subsidy''). As discussed below, these provisions do not undermine the remedy in the amended proposed Final Judgment.

1. The Margin Guarantee

UPMC questions provisions that establish the terms under which Evangelical provides hospital and medical services to patients insured by GHP. Specifically, Evangelical and GHP have agreed that Evangelical will lower its prices to GHP for treating GHP insured patients, and GHP will, in return, place Evangelical in the most favorable tier of its fully insured, tiered commercial insurance plans. This sort of arrangement is common in the healthcare industry. By placing Evangelical in the most favorable tier, the expectation is that more GHP members will seek treatment from Evangelical, allowing Evangelical to maintain or increase its profit on these patients notwithstanding its lower prices. To further guarantee that Evangelical's lower prices will not reduce Evangelical's profits from treating GHP members, GHP has committed that Evangelical's profit (in dollars) on GHP's fully insured commercial business will remain the same or increase during the time that Evangelical provides these lower prices to GHP.[18] This ''Margin Guarantee'' thus protects Evangelical, a small hospital, from losing money as a result of offering GHP lower prices. UPMC, however, claims these provisions will reduce competition between Evangelical and Geisinger and create an incentive for Evangelical to charge higher prices to third-party insurance companies such as UPMC Health Plan.

In its Complaint, the United States did not allege competitive harm resulting from the Margin Guarantee.[19] Therefore, UPMC's concerns regarding the Margin Guarantee are outside the scope of the Court's review under the APPA. *See Microsoft,* 56 F.3d at 1459; *U.S. Airways,* 38 F. Supp. 3d at 76. Moreover, UPMC's concerns regarding the Margin Guarantee are unfounded for the following reasons. First, UPMC argues that the Margin Guarantee reduces competition between Evangelical and Geisinger because, absent the Margin Guarantee, GHP would have tried to steer patients toward Geisinger hospitals and physicians, while the Margin Guarantee gives GHP an incentive to have more patients treated at Evangelical. UPMC's argument, however, would apply to any arrangement that made Evangelical a more attractive or lower cost option for patients who are commercially insured by GHP. Under UPMC's reasoning, arrangements that are standard in the health insurance industry, such as a tiered network arrangement with a health insurance company that places Evangelical in the most favorable tier, would be improper, which is not the case. The Margin Guarantee simply ensures that Evangelical's profitability on GHP patients will not decrease as a result of offering GHP lower prices; at the same time, this arrangement is designed to save GHP money and benefit its members (*e.g.,* through lower copays). Additionally, the amended proposed Final Judgment ensures that Geisinger and Evangelical will remain independent, and will thus have the incentive to compete against one another.

Second, UPMC speculates that the Margin Guarantee gives Evangelical the incentive to raise rates to third-party insurers like UPMC Health Plan. If anything, however, the Margin Guarantee is likely to incentivize Evangelical to maximize the share of its patients that are insured by third-party insurers such as UPMC Health Plan, rather than incentivize it to increase prices to these entities. This is because any profit from third-party insurers would be *in addition to* the profit that Evangelical is already guaranteed to earn from GHP. UPMC argues that Evangelical's increasing the number of patients it sees from third-party insurers would violate the ''spirit'' of the Amended Agreement,[20] but this is incorrect because the amended proposed Final Judgment maintains Evangelical's independence, preventing Geisinger from controlling or influencing Evangelical's negotiations with third-party insurers.

Finally, to the extent UPMC raises concerns about potential information sharing between Evangelical and Geisinger relating to the Margin Guarantee, those concerns are unwarranted. Integrated insurer-hospital systems like Geisinger and UPMC routinely obtain sensitive information from insurer negotiations with third-party hospital systems like Evangelical and must assure those hospital systems that the information will not be shared more broadly throughout the integrated organization. To the extent that UPMC is concerned that Evangelical will share sensitive information about the UPMC-Evangelical contract with GHP, UPMC, a large, sophisticated hospital system, can protect itself through its contract with Evangelical. Moreover, in this instance, the amended proposed Final Judgment requires Defendants to implement a firewall to prevent competitively sensitive information from being disclosed between Geisinger and Evangelical, providing an additional level of protection to prevent such improper disclosure.[21] Should Defendants bypass the firewall and share competitively sensitive

[17] UPMC Comment, attached as Exhibit C.

[18] Second Amended and Restated Collaboration Agreement (Dkt. 51–3) at Exh. D. If the volume of GHP insured patients is not sufficient on its own to maintain Evangelical's current level of profitability, GHP, under the Margin Guarantee, will adjust the rates it pays Evangelical to reach this threshold, which will not impact Evangelical's preferred tier status.

[19] The only allegation in the Complaint that relates to the Margin Guarantee is that ''Evangelical's placement in the most favored tier of Geisinger Health Plan's commercial insurance products does not require the partial-acquisition agreement.'' Complaint ¶ 66.

[20] UPMC Comment at 10.

[21] Amended proposed Final Judgment ¶ VII.A.

information, the United States can seek relief from the Court under the Final Judgment or through antitrust laws that will continue to apply to Defendants.

UPMC's concerns as to the Margin Guarantee, which go beyond the allegations in the Complaint and thus are beyond the scope of the Court's APPA review, do not undermine the amended proposed Final Judgment. Moreover, UPMC's request, in connection with the Margin Guarantee, to modify the amended proposed Final Judgment to have the Court mandate specific contractual practices between Defendants, or to have the United States oversee contractual negotiations between them, is unnecessary and would involve the Court and the United States inappropriately in private contractual negotiations.[22]

2. The IT Subsidy

UPMC also objects to Paragraph V.B of the amended proposed Final Judgment, under which Geisinger may provide Evangelical with electronic medical records systems and support at a subsidized cost—the IT Subsidy.[23]

The IT Subsidy will enable Evangelical to adopt health information technology to improve the delivery of care to patients in central Pennsylvania. Indeed, as UPMC acknowledges, Defendants' sharing of electronic medical records software is likely to improve the experience for patients who receive care at both Geisinger and Evangelical. Even if UPMC is correct that having Geisinger and Evangelical on an integrated platform would increase interoperability by making patient records easier to access, patient scheduling more fluid, and patient referrals easier across the organizations,[24] those features will benefit patients without harming competition. Moreover, it is not uncommon in the health care industry for large health care systems to offer to subsidize a portion of the costs for smaller health care organizations to acquire electronic health records systems.[25]

UPMC appears to object to the IT Subsidy because it may *increase* Evangelical's independence and, by virtue of meeting its business needs, may make Evangelical less likely to partner with others in the market, such as UPMC. This outcome, however, would not harm competition.

Finally, UPMC's attempt to analogize the IT Subsidy to so-called ''reverse payment'' cases is misplaced, as the IT Subsidy lacks an essential component of an agreement to delay competition. In a typical ''reverse payment'' case, a pharmaceutical company that manufactures a brand-name drug settles a claim of patent infringement with a generic competitor by agreeing to pay the generic competitor in exchange for the generic competitor's agreement to delay launching a competing generic drug. Here, by contrast, there is no agreement between Defendants to delay or restrain competition. UPMC's comment thus provides no reason for concluding that the amended proposed Final Judgment is not in the public interest.

V. Conclusion

After carefully reviewing the public comments, the United States continues to believe that the amended proposed Final Judgment provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. The United States will move this Court to enter the Final Judgment after the comments and this response are published as required by 15 U.S.C. 16(d).

Dated: August 31, 2021

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

/s/David M. Stoltzfus

DAVID M. STOLTZFUS
NATALIE MELADA
CHRIS HONG
DAVID C. KELLY
GARRETT LISKEY

Attorneys for the United States

U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 4100, Washington, DC 20530, Tel: (202) 598–2978, Email: *david.stoltzfus@usdoj.gov*

[REDACTED]

March 8, 2021

U.S. Dept of Justice, 450 Fifth St. NW, Suite 4100, Washington, DC 20530

Dear Mr. Welsh,

I am commenting about the settlement between Geisinger and Evangelical Hospital I agree with your conclusion that they do not merge because of the monopoly the Geisinger will have and all the bad effects that will occur.

I live in Danville, one mile from the Geisinger but have all of my care given at Evangelical. I would hate to have that spoiled.

Sincerely,

Carol A. Barsh

Eric Welsh, Chief
Healthcare and Consumer Products Section
Antitrust Division
U.S. Department of Justice
450 Fifth St. NW
Suite 4100
Washington, DC 20530

Mr. Welsh:

I am writing to express my concerns regarding the DOJ's recent proposed settlement for the partial acquisition of Evangelical Community Hospital by Geisinger Health.

As it stands, the settlement limits Geisinger's ownership interest in Evangelical to 7.5%, described as passive. Additionally, loans/lines of credit to Evangelical are forbidden, as is exerting any control over Evangelical's expenditures. Kendra Aucker, Evangelical's CEO, has stated that Evangelical will use Geisinger's financial support to fund facilities, technology and services while simultaneously describing Evangelical Hospital as ''independent''. From this, arise the following questions and issues:

How is Evangelical independent if it depends upon Geisinger's 7.5% involvement without which we must assume Evangelical could not fund upgrades to what Ms. Aucker describes as facilities, technology and services?

What benefit does Geisinger obtain in the arrangement proposed by the DOJ since it represents only a fraction of what Geisinger sought in both monetary interest and strategic control? It appears that had Geisinger walked away from the proposed settlement it would have made plain their strategy of assuming sufficient control of a competitor without an outright takeover. This strategy was long evident to some of us in the community as ''why take over outright what you can control by other means''. Hospital competition in the area is presently limited due to Geisinger's acquisition of Shamokin Area Hospital, Bloomsburg Hospital and the closure of Sunbury hospital. With only Evangelical Hospital remaining the strategy almost worked. So is it now about Geisinger saving face or is there another agenda afoot?

The proposed settlement is framed in terms of both hospital's competition for 'inpatient general acute-care hospital services'' however there's much revenue to be made from outpatient services. What is to prevent Geisinger from expanding services into Evangelical's outpatient market thereby negating the cap imposed on the inpatient services, thus causing further financial strain on Evangelical?

Evangelical hospital recently completed construction of a $70 million PRIME (Patient Room Improvement, Modernization, and Enhancement) project. With an annual revenue of about $260 million, it is reasonable to enquire about the financing and terms that were obtained, what was used as collateral and if there was a co-signer. The facility was advertised as allowing access to

[22] *See Brunswick Corp.* v. *Pueblo Bowl–O–Mat, Inc.,* 429 U.S. 477, 488 (1977) (''[A]ntitrust laws . . . were enacted for the protection of competition not competitors.'') (internal quotation marks removed).

[23] Amended proposed Final Judgment ¶ V.B.

[24] UPMC Comment at 15.

[25] Office of the Nat'l Coordinator for Health Info. Tech. (part of the U.S. Department of Health and Human Services), *EHR Contracts Untangled: Selecting Wisely, Negotiating Terms, and Understanding the Fine Print* 6 (2016), *https://www.healthit.gov/sites/default/files/EHR_Contracts_Untangled.pdf.*

leading-edge technology not found at other community hospitals. Was this project planned prior to Geisinger's attempted acquisition? Was failure the plan? Without Geisinger's hoped for depth of financial involvement what will this mean for Evangelical's future finances?

If Evangelical does not anticipate an adverse financial impact from the DOJ's agreement, despite Geisinger's significantly reduced financial involvement, why did Evangelical originally accede to Geisinger's partnership with such onerous terms unless it was needed?

If Evangelical seeks a revisiting of the DOJ's settlement due to future financial shortcomings, does the DOJ currently have an opinion on what it may need to propose? In other words, did the DOJ review, and if not, will it review why Evangelical was seeking to expand services beyond what is found in a community hospital, services it apparently could not afford without giving up financial and strategic control of its hospital? Structuring an agreement that on the surface would not appear to be an antitrust violation gives an indication in my mind as to the mindset of the parties.

Regarding Evangelical's acquisition of IT systems and support from Geisinger, will this be at fair market value? Is there a mechanism to ensure that the price for support will not make up for the denied opportunity of partial hospital ownership and the service lines that Geisinger planned to develop?

In summary, what benefit does Geisinger derive from passive involvement in Evangelical, what is the endgame of each organization, and at what cost is there to the community, given the ever shrinking choices available to the public?

Thank You,

Steve Karp, MD

[REDACTED]

AXINN, Richard B. Dagen
1901 L Street NW
Washington, DC 20036
202.721.5418
RDAGEN@AXINN.COM

June 3, 2021

Via Electronic Mail

Eric D. Welsh, Esq.
Chief, Healthcare and Consumer Products Section
Antitrust Division, Department of Justice
450 Fifth Street NW, Suite 4100
Washington, DC 20530

Re: *United States* v. *Evangelical Community Hospital and Geisinger Health,* Civil Action No. 4:20–cv–01383–MWB (M.D. Pa.)

Dear Mr. Welsh:

On behalf of our client UPMC, a Pennsylvania nonprofit non-stock corporation, we submit these comments suggesting modifications to the Proposed Final Judgment (''PFJ'') [1] in the above-referenced case.

UPMC recently entered the general market region involved in this case to invigorate competition on both the provider and the insurer side. Like Geisinger Health (''Geisinger''), UPMC itself is both a provider and payer, or Integrated Delivery and Finance System (''IDFS''). And to attempt to increase competition in the very region at issue, UPMC engaged in talks with Evangelical Community Hospital (''Evangelical'') regarding potential collaboration. The combination of these facts puts UPMC in a unique position from which to comment on the PFJ.

After a lengthy investigation, the Department of Justice (''DOJ'') properly concluded that the initial proposed Collaboration Agreement between Geisinger and Evangelical would ''substantially lessen competition and unreasonably restrain trade . . . .'' Complaint at 1, *United States* v. *Geisinger Health,* No. 4:20–cv–01383–MWB (M.D. Pa. 2020) (hereinafter ''Compl.'').[2] From the outset, the DOJ correctly alleged that ''the substantial financial entanglements between these two close competitors . . . reduces both hospitals' incentives to compete aggressively.'' Id. The Complaint further explains that Geisinger's motivation to acquire and collaborate with Evangelical was to eliminate its central fear—that an Evangelical ''strategic partnership'' with UPMC would create a ''more effective competitor [that] could put Geisinger's revenues at risk.'' Id. ¶ 3.

Rather than litigate to enjoin the acquisition, on March 3, 2021, the DOJ and the defendants stipulated to the PFJ.[3] This remedy was aimed at preserving Evangelical's competitive independence, and prohibiting Geisinger and Evangelical from sharing competitively sensitive information. Indeed, the PFJ was intended to require the parties to ''eliminate other entanglements between them that would allow Geisinger to influence Evangelical.'' Competitive Impact Statement (''CIS''), ECF No. 46 at 2. After the publication of the PFJ on March 3, 2021, however, UPMC alerted the DOJ—and the DOJ acknowledged—that several problematic provisions contained in the original ''Collaboration Agreement'' [4] between Geisinger and Evangelical had not been addressed in the PFJ or Amended and Restated Collaboration Agreement (''Amended Collaboration Agreement''). ECF No. 45–2; 46–2. These legacy issues—if left in place—would harm competition, and they only make sense in the light of the original, improper collaboration.

DOJ has since corrected only some of the legacy issues. On May 17, 2021, it filed a Joint Notice of Amended Proposed Final Judgment, attaching a revised PFJ and Second Amended and Restated Collaboration Agreement (''Second Amended Collaboration Agreement''). See ECF No. 51, 51–1, 51–3. According to the Joint Notice, ''[a]fter filing the proposed Final Judgment, it was discovered that the Amended and Restated Collaboration Agreement and its attachments inadvertently included legacy provisions that did not conform to the proposed Final Judgment.'' ECF No. 51. Still, despite these corrections, additional legacy issues that harm competition remain unaddressed.

Two critical legacy issues create anticompetitive financial entanglements that undermine the objective to preserve and protect competition in the relevant market. These two principal entanglements involve: (1) Geisinger's margin guarantees to Evangelical, found in the Addendum to Geisinger's Hospital Services Agreement with Evangelical and the Addendum to the Physician Services agreement, both included as Exhibit D to the Second Amended Collaboration Agreement (ECF No. 51–3 at 55–56, 60–61) (''Margin Guarantee''); [5] and (2) Geisinger's subsidization of Evangelical's information technology (''IT'') expenses, as well as Geisinger's ongoing entanglement in those IT services, both referenced in the PFJ at V.B.1–3 (ECF No. 51–1 at 7) and 6.5 of the Second Amended Collaboration Agreement (ECF No. 51–3 at 9) (''IT Entanglement''). These entanglements also involve substantial improper information sharing not resolved by the PFJ.

Whether viewed independently or together, these provisions enable Geisinger and Evangelical to achieve precisely those anticompetitive effects of the transaction that the DOJ strongly urged should be eliminated. Permitting these legacy provisions to survive will reduce the incentives of Geisinger and Evangelical to compete. *See* Compl. ¶ 6. In fact, in addition to the reduction in competition from a stand-alone Evangelical, these surviving entanglements will reduce the threat to Geisinger that Evangelical will become a stronger competitor through collaboration with UPMC (or another entity). *See* id. ¶ 3. As the Complaint and Competitive Impact Statement make plain, those two anticompetitive goals motivated the original Collaboration Agreement, and that purpose is still accomplished through the Margin Guarantee and the IT Entanglement.

The key to unraveling the purpose and effect of these provisions is to ''follow the money.'' Here, as in reverse payment cases where a branded pharmaceutical pays a generic to eliminate a competitive threat to its market position, the flow of money from Geisinger to Evangelical under the Margin Guarantee and IT Entanglement is most consistent with anticompetitive intent and effects. For example, under the PFJ, Geisinger is permitted to provide heavy subsidies on IT— discounts of 85%, presumably worth tens of millions of dollars—to its ''closest competitor.'' Compl. ¶ 18. Further, contrary to the expected outcome between a payer and a provider, Geisinger's Margin Guarantee can lead to Geisinger paying more when it sends additional volume to Evangelical. *See* ECF No. 51–3 at 59, 64. Finally, under the terms of PFJ, Evangelical gets to keep approximately $20.3 million from Geisinger, while Geisinger obtains a 7.5% interest in a non-profit that will entitle it to that 7.5% value only upon sale of Evangelical, liquidation, or termination of the agreement. *See* CIS at 10–11; ECF No. 51–3 at 10–11.

[1] ECF No. 51–1.

[2] ECF No. 1.

[3] ECF No. 45–1 (Stipulation and Order to the first proposed Final Judgment filed on March 3, 2021, ECF No. 45–2).

[4] ECF No. 46–1.

[5] The Margin Guarantee was also included in Exhibit D to the Amended Collaboration Agreement. ECF No. 46–2 at 54, 60–61.

Why would Geisinger bestow such largess on its closest competitor? After all, Geisinger—which despite its position in the relevant market refuses to enter provider contracts with any of UPMC's health plans—knows how to compete. The DOJ has already properly rejected any suggestion that Geisinger was offering funds ''altruistically.'' Compl. ¶ 6. Instead, Geisinger is providing and guaranteeing this money, and Evangelical is accepting it, because ''as a result of this transaction, both Defendants have the incentive to pull their competitive punches—incentives that would not exist in the absence of the agreement.'' Compl. ¶ 32. Geisinger achieves a dependent Evangelical, and perhaps more importantly, keeps UPMC at bay. Indeed, if permitted, the entanglement created by the remaining provisions could allow Geisinger to influence Evangelical to cut off its relationship with UPMC as well, further threatening competition for health plans in the market.

This outcome should not be permitted, particularly where the DOJ has already acknowledged there are no procompetitive benefits in the transaction to weigh against these harms,[6] and ''Evangelical's placement in the most favored tier of Geisinger Health Plan's commercial insurance products does not require the partial-acquisition agreement.'' Compl. ¶ 66. These legacy provisions, like those the DOJ has excised, were designed to further the anticompetitive ''spirit and intent of the ECH-Geisinger Collaboration Agreement.'' ECF No. 46–2 at 54, 60. Because there is no pro-competitive collaboration which outweighs the likely anticompetitive effects, the PFJ should be modified to eliminate these last impactful vestiges of the original Collaboration Agreement.

Background

Evangelical and Geisinger are each other's closest competitors in a six-county area of Central Pennsylvania. Compl. ¶¶ 18, 56, 65; CIS at 4–5. Together they account for at least 70% of the inpatient general acute-care services in this area. CIS at 4. As an independent community hospital with annual revenue of approximately $260 million, Evangelical knew it was vulnerable to competition from Geisinger, the largest provider in the relevant market, with annual revenue above $7 billion. *See* Compl. ¶¶ 19, 21; CIS at 2–3. Meanwhile, Geisinger ''had long feared that Evangelical could partner with a hospital system or insurer to compete even more intensely'' against Geisinger. Compl. ¶ 3.

Geisinger's concern was heightened in 2017 when Evangelical announced it was looking for a strategic partner. Compl. ¶ 22. This occurred just after Susquehanna Health System joined UPMC in 2016, having rejected overtures from Geisinger. To avoid a potential repeat whereby a nearby competitor became stronger, Geisinger intended to create ''an indefinite partnership'' to ensure that ''Evangelical is 'tied to us' so 'they don't go to a competitor.' '' Compl. ¶ 30. The stage was set for a merger or collaboration that would solve both Geisinger's and Evangelical's troubles. And since the defendants knew they could not merge outright, they ''concocted the complicated partial-acquisition agreement . . . to avoid antitrust scrutiny.'' Compl. ¶ 24.

Even now after several revisions (both pre- and post-challenge), the Second Amended Collaboration Agreement still maintains certain anticompetitive features that generate the same financial and other entanglements condemned in the DOJ's Complaint. These provisions negatively impact the incentives for Geisinger and Evangelical to compete with one another, incentivize higher prices to payers, and substantially reduce the likelihood that Evangelical would partner with UPMC or any other entity in a way that could better compete against Geisinger. Indeed, Paragraph 6 of the Complaint aptly summarizes the results:

> The $100 million pledge, however, was not made altruistically and is certainly not without strings. The partial-acquisition agreement ties Geisinger and Evangelical together in a number of ways, fundamentally altering their relationship as competitors and curtailing their incentives to compete independently for patients. Patients and other purchasers of healthcare in central Pennsylvania likely will be harmed as a result of this diminished competition.

The relief already obtained by the DOJ disentangles the parties in some important ways, such as severing Geisinger's ability to appoint directors and control certain Evangelical actions. The DOJ also capped Geisinger's ownership interest in Evangelical to attempt to preserve each company's respective incentives to compete.

Unfortunately, the surviving entanglements between Geisinger and Evangelical—now ostensibly blessed by the PFJ—effectively negate to a substantial degree the potential positive effects of the proposed relief. The Margin Guarantee and IT Entanglement were negotiated in connection with, and are inextricably linked to, the original Collaboration Agreement. So too was the payment of $20 million. There is no reason to pick and choose between the various provisions as to which can survive. Given the existence of a hold-separate agreement in this case, voiding the Second Amended Collaboration Agreement in its entirety is the best option to achieve the relief described in the Complaint and claimed in the Competitive Impact Statement. Short of total elimination, at a minimum, the provisions discussed herein should be voided. In the event that the first two options are rejected, some additional alternatives are presented that might lessen the magnitude of the harm.

We explain in more detail below why the legacy provisions regarding the Margin Guarantee and IT Entanglement maintain the competitive harms identified in the Complaint and why the PFJ should be modified to promote the public interest. The PJF simply does not fall ''within the range of acceptability or 'within the reaches of the public interest.' ''[7]

Legal Standard in Tunney Act Proceedings

The DOJ will file comments and its response with the Court in compliance with the Tunney Act, which states, the Court ''shall determine that the entry of [the PFJ] is in the public interest.''[8] ''[C]ourts compare the complaint filed by the government with the proposed consent decree and determine whether the remedies negotiated between the parties and proposed by the Justice Department clearly and effectively address the anticompetitive harms initially identified.''[9] Proposed remedies should ''effectively open[] the relevant markets to competition . . . . ''[10] Although courts owe deference to the DOJ, the exercise is not ''a mere formality''[11] nor ''merely a 'judicial rubber stamp.' ''[12] In this regard, when making its public interest determination, a court must ''make an independent determination.''[13] As the D.C. Circuit has explained, ''If, for example, a proposed consent 'decree is ambiguous, or the district judge can foresee difficulties in implementation,' the decree should not be entered until the problems are fixed.''[14] Further, courts are not obliged to accept a consent ''if third parties contend they would be positively injured by the decree.''[15]

When, after reviewing the DOJ's response that nothing in the public comments alters the DOJ's original conclusions, a court disagrees and concludes that a Proposed Final Judgment does not meet the public interest standard, courts have taken a variety of steps. Those have included requiring the parties to substantially modify the proposed consent decree before approving it,[16] ordering that the parties file annual reports with the court regarding the status of certain requirements in the Final Judgment,[17] and holding annual hearings ''to ensure that the Final Judgment does, and continues to, satisfy the public interest.''[18] As in another

[6] Compl. ¶ 67 (''there are no transaction-specific efficiencies to weigh against the harm'').

[7] *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations and subsequent history omitted).

[8] 15 U.S.C. 16(b), (d), (e)(1).

[9] *United States* v. *Thomson Corp.,* 949 F. Supp. 907, 913 (D.D.C. 1996). None of the relief proposed here exceeds the scope of the Complaint allegations. Cf. *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1462 (D.C. Cir. 1995).

[10] *AT&T,* 552 F. Supp. at 153.

[11] *United States* v. *CVS Health Corp.,* 407 F. Supp. 3d 45, 52 (D.D.C. 2019).

[12] *Thomson Corp.,* 949 F. Supp. at 914.

[13] *Id.* (internal quotations and citations removed). Here, the court declined to approve the Proposed Final Judgment until it included a provision that would require the defendants to provide anyone a free license to a copyright upon request or another suitable remedy to resolve the court's concerns about barriers to entry. Id. at 930–31.

[14] *CVS Health,* 407 F. Supp. 3d at 52 (citing Microsoft, 56 F.3d at 1462).

[15] *Microsoft,* 56 F.3d at 1462.

[16] *AT&T,* 552 F. Supp. at 214; Thomson, 949 F. Supp. at 931.

[17] *United States* v. *Comcast Corp.,* 808 F. Supp. 2d 145, 149–150 (D.D.C. 2011). The court indicated that ''despite the Government's assurances that 'this Court retains jurisdiction to issue orders and directions necessary and appropriate to carry out or construe any provision of the Final Judgment,' and 'to enforce compliance, and to punish violations of its provisions,' I am not completely certain that these safeguards, alone, will sufficiently protect the public interest in the years ahead.'' Id. at 149 (citations omitted).

[18] *Comcast Corp.,* 808 F. Supp. 2d at 150.

recent matter involving the health care industry, ''with so much at stake, the congressionally mandated public interest inquiry must be thorough.'' [19]

Margin Guarantees in the Collaboration Agreement Addenda

Exhibit D to the Second Amended Collaboration Agreement [20] incorporates Margin Guarantee provisions that create incentives for Geisinger and Evangelical not to compete. As detailed more fully below, under the Margin Guarantee, Geisinger ensures that Evangelical obtains equal or larger Geisinger Health Plan revenues throughout the term of the agreement. In addition to reducing head-to-head competition, this Margin Guarantee creates incentives for Evangelical to raise provider rates to UPMC and other health plans, increasing costs to consumers and heavily favoring Geisinger in the relevant market. These Addenda were part of the original Collaboration Agreement,[21] and their practical effects are only understood in that context. With no pro- competitive collaboration or integration to offset the likely anticompetitive effects, these Addenda should be stricken along with the other disincentives to compete still embedded in the Second Amended Collaboration Agreement.

Although the CIS does not mention the Margin Guarantee, the DOJ apparently views the Margin Guarantee as a ''typical'' contract between a payer and a provider with a guarantee that Evangelical will achieve guaranteed revenue in exchange for lower rates. But this view ignores the reality reflected throughout the Complaint that Geisinger is not a typical payer, but is vertically integrated, providing both health care services and health plans.

Given the uncertain nature of healthcare costs, a typical payer-provider contract does not contain 10-plus-year margin guarantees. UPMC is both a provider and an insurer, and is not aware of the existence of any agreement with a similar Margin Guarantee in any other context. The concept is rife with anticompetitive potential and several such effects are likely to unnecessarily eviscerate a substantial portion of the relief sought in the PFJ.

The Addenda consist of two main parts. First, Geisinger commits that Evangelical's hospital and other provider services will be included in the highest tier (Tier 1) of Geisinger's health plans.[22] This provision is not generally problematic; a health plan often attempts to steer increased patient traffic to a provider in exchange for lower reimbursement rates.

Second, however, the Addenda contains an unusual and plainly anticompetitive Margin Guarantee,[23] that (while somewhat difficult to parse and perhaps intentionally vague as to details) appears to provide for the following:

- In each year of the ten-year agreement, Geisinger guarantees that Evangelical will receive the same or a larger amount of total margin dollars (called a ''Margin Threshold'') starting from a certain base.[24]
- If the margin dollars decrease, Geisinger will make it up to Evangelical with (i) a retroactive payment; and (ii) higher reimbursement rates to Evangelical going forward.[25]
- If the margin dollars increase, Evangelical pays Geisinger a retroactive payment and Geisinger's rates go down.[26]
- Geisinger and Evangelical share highly competitively sensitive information to effectuate the agreement on a monthly basis (discussed further below).[27]

Illustrations of how this framework is to operate in practice are attached to the Addenda as Exhibit A, and they produce highly surprising and competitively suspect results.[28]

First, recall that Evangelical feared competition from Geisinger. Absent this Margin Guarantee for the next ten years, Geisinger would have tried to steer patients away from Evangelical providers and toward Geisinger providers. But Geisinger's Margin Guarantee has reduced Evangelical's fear of losing patients by setting up a penalty to discourage Geisinger from engaging in such activity. With the Margin Guarantee, Evangelical is immunized against loss of margin. And if Geisinger is to entice a patient to a Geisinger hospital, Geisinger not only has to offer better terms to the patient, but also has to make up revenue lost by Evangelical. By design, the incentive to compete between Geisinger and Evangelical has decreased, the very same effect that the DOJ decried in the Complaint regarding the Collaboration Agreement.

Why would Geisinger offer to make payments to compensate Evangelical for patients it lures away? [29] Because the penalty benefits Geisinger; Evangelical no longer fears competition from Geisinger, and therefore Geisinger has less reason to fear that Evangelical would partner with UPMC (or another entity) and become ''a more effective competitor.'' Simply put, the Margin Guarantee achieves Geisinger's main objective from the collaboration: ''[d]efensive positioning against expansion by [UPMC] and/or affiliation with [another] competitor.'' Compl. ¶ 22 (brackets in original).

Also by design, this reduction of competition from Geisinger gives Evangelical the freedom and incentive to raise provider rates to other payers (like UPMC), which have much smaller subscriber bases and direct lower patient volume to Evangelical than can Geisinger. As Evangelical raises rates for medical services, Geisinger providers are then also in a position to raise rates. Indeed, economic theory predicts that no actual payments even have to trade hands for market rates to be successfully increased. This is a classic example of game theory involving an enforceable pre-commitment.[30]

The Exhibit A to the Addenda also reveal a second mechanism incenting Evangelical to raise payer rates. If Geisinger Health Plan competes for and captures an existing Evangelical patient from another insurer that pays Evangelical higher reimbursement rates than does Geisinger, then Geisinger must make up the revenue loss to Evangelical. In effect, this could result in Geisinger paying higher rates to Evangelical even when Geisinger's volume to Evangelical increases. Several crucial implications fall out from this odd result.

It is axiomatic that higher payer patient volumes predictably lead to lower reimbursement rates. Geisinger has by far the largest insurance market share in the relevant area. Therefore, one would expect that most payers, if not all, are like the insurer referred to in Exhibit A as ''Payer A,'' paying higher provider rates than Geisinger to Evangelical. In this example, when Geisinger's Health Plan takes a current Evangelical patient from ''Payer A''—which pays Evangelical higher rates than would Geisinger for the same medical services—Geisinger has promised to reimburse Evangelical for lost margin through a retroactive payment and higher rates going forward. And the greater the difference in rates, the more money Geisinger has promised to pay to make Evangelical whole.

Why does it follow that Evangelical has the incentive to raise rates to UPMC or another similarly-situated Payer A? First of all, that's what Geisinger wants—and it is willing to pay Evangelical to get it. Moreover, Evangelical will raise rates because it can profitably do so. As Evangelical increases provider rates to UPMC two possibilities can

[19] *CVS Health,* 407 F. Supp. 3d at 48.

[20] *See* Addendum to the Agreement to Provide Hospital Services by and among Geisinger Health Plan, Geisinger Indemnity Insurance Company, Geisinger Quality Options, Inc., and Evangelical Community Hospital, ECF No. 51–3 at 55; Addendum to the Agreement to Provide Primary and Specialty Medical Services by and among Geisinger Health Plan, Geisinger Indemnity Insurance Company, Geisinger Quality Options, Inc., and Evangelical Medical Service Organization, ECF No. 51–3 at 60.

[21] *See* ECF No. 46–1 at 129–140.

[22] *See* ECF No. 51–3, at 56 (§ B.2), at 61 (§ B.2).

[23] *See* ECF No. 51–3, at 55–56 (§ B.1), at 60–61 (§ B.1).

[24] *See* ECF No. 51–3, at 55–56 (§§ A, B.1), at 60–61 (§§ A, B.1).

[25] *See* ECF No. 51–3, at 55–57 (§§ B.1, B.3, B.6, B.7); id. at 59 (Exhibit A); at 60–63 (§§ B.1, B.3, B.6, B.7); id. at 64 (Exhibit A).

[26] *See* ECF No. 51–3, at 55–57 (§§ B.1, B.3, B.6, B.7); id. at 59 (Exhibit A); at 60–62 (§§ B.1, B.3, B.6, B.7); id. at 64 (Exhibit A).

[27] *See* ECF No. 51–3, at 56–57 (§§ B.6, B.7), at 61–62 (§§ B.6, B.7).

[28] *See* ECF No. 51–3, at 59 (Exhibit A), at 64 (Exhibit A).

[29] The 7.5% interest retained by Geisinger does not entitle it to receive any cash flow. ECF 51–3, at 8 (§ 6.2) (''Evangelical shall not make, nor be required to make, any distributions or other payments with respect to Geisinger's membership interest in Evangelical.'').

[30] *Cf.* Jonathan Baker, *Two Sherman Act Section 1 Dilemmas: Parallel Pricing, the Oligopoly Problem, and Contemporary Economic Theory,* 38 ANTITRUST BULLETIN 143, 158 (''Firms can deter rivals from cheating by guaranteeing that when the time comes to carry through a punishment, they will find the punishment behavior attractive. They do so by tying their own hands . . . .''); Ian Ayres, *How Cartels Punish: A Structural Theory of Self-Enforcing Collusion,* 87 COLUMBIA L. REV. 295, 317 (1987) (''Once a super-competitive cartel price is established, an MFN [most-favored-nation] clause also acts to increase the costs of prices cuts. Unlike an MCC [meeting competition clause], where the rivals are committed to punishing, the MFN clause is a credible commitment to self-punishment '').

occur: In one scenario, UPMC accepts those rate increases and pays more, passing those additional costs on to its insured employers and employees. This in turn increases the cost of UPMC's health plans, making UPMC less competitive against Geisinger's plans. If UPMC is able to retain its employer clients in the face of the price increase, Evangelical's price increase is successful, and it gets more revenue. Alternatively, if UPMC's employer clients refuse the price increase, the most likely insurer alternative is Geisinger. Geisinger, as discussed above, would then have to pay Evangelical to make up for any lost margin, but it gains new subscribers that offset the payment to Evangelical. In short, Evangelical is protected against any loss of profit from raising rates to UPMC or another ''Payer A,'' and will gain revenue under many likely circumstances.[31]

The illustration above raises another particularly unusual question that should give an antitrust enforcer pause: As Geisinger Health Plan wins new patients and its volume increases at Evangelical, why would Geisinger commit to paying a higher rate to Evangelical? In light of the motivation for the Collaboration Agreement as a whole, the best answer is to think of the Margin Guarantee as Geisinger paying Evangelical to raise rates to UPMC. That benefits Geisinger because employers that are not willing to accept the price increase will simply switch to Geisinger. Additionally, on the provider side, if patients leave Evangelical as a result of the higher prices, Geisinger's providers are again the most likely alternative: Geisinger has more than 50% of the relevant market, and we understand that the diversion ratio from Evangelical to Geisinger is around 70%. In short, the Margin Guarantee is a new method to ''raise rivals' costs,'' and gain additional market share, whether it occurs on the provider or payer side.[32]

We understand the DOJ's belief is that instead of increasing provider rates to UPMC and other payers, Evangelical will be incentivized to lower rates to other health plans with the expectation that these smaller payers will win Geisinger-insured patients and still preserve its margin from Geisinger under the Margin Guarantee. But this is unlikely for several reasons. The Addenda is supposed to further the collaboration between the two, to the benefit of both parties. If Evangelical opportunistically reduced rates to other payers to take advantage of the Margin Guarantee, Geisinger would likely have a claim for breach of contract because of the implied covenant of good faith and fair dealing. The Second Amended Collaboration Agreement allows Geisinger to provide approximately $20 million to Evangelical in exchange for a 7.5% ownership interest. If Evangelical substantially lowered rates to other providers, that would not be in the spirit of contract.[33]

Additionally, because of the payment mechanism and the information sharing in the Margin Guarantee, there is no doubt that Geisinger would learn of any discounting to UPMC or others. As a result, Evangelical would be further dissuaded from lowering prices to UPMC in fear that Geisinger might retaliate, for example, through additional capital expenditures in Evangelical's backyard. Compl. ¶ 19 (''in considering capital expenditures for certain improvements to its facilities in 2018, Geisinger cited Evangelical's competitive activities.''). Further, a rate decrease to UPMC (or other payers) would have the almost certain effect of reducing revenue for all current volume, balanced against an uncertain hope that UPMC (or other payers) would send additional volume to Evangelical. Lower rates then would require the unlikely belief by Evangelical that the uncertain incremental revenue would surpass the predictable loss from revenue of current patients. For all the above reasons, incentives point towards Evangelical raising provider reimbursement rates to non-Geisinger payers.

It bears repeating that the Margin Guarantee was created to better align incentives in furtherance of a joint profit maximizing collaboration. Moreover, any thoughts that past competition would predict future competition between Evangelical and Geisinger is dispelled by the DOJ's compelling recitation of ''the history of picking and choosing when to compete with each other.'' *See* Compl. ¶¶ 40–42. In fact, the DOJ found:

• Although Geisinger and Evangelical are competitors for patients in central Pennsylvania, they have previously engaged in coordinated behavior, picking and choosing when to compete and when not to compete. This tendency to coordinate their competitive behavior is reflected by Evangelical's CEO's view of ''co-opetition.

• Defendants' prior acts of coordination, which are beneficial only to themselves, reinforce their dominant position for inpatient general acute- care services in central Pennsylvania. Defendants' coordination comes at the expense of greater competition and has taken various forms:

○ Leaders from Defendants have had ''regular touch base meetings,'' in which they discussed a variety of topics, including strategic growth options.

○ Geisinger has shared with Evangelical the terms of its loan forgiveness agreement, which Geisinger uses as an important tool to recruit physicians.

○ Geisinger and Evangelical established a co-branded urgent-care center in Lewisburg that included a non-compete clause. As Evangelical's head of marketing explained to the board, the venture allowed Evangelical ''to build volume to our urgent care with Geisinger as a partner rather than potentially as a competitor.

• More concerning, senior executives of Defendants entered into an agreement not to recruit each other's employees—a so-called no-poach agreement. Defendants' no-poach agreement—an agreement between competitors, reached through verbal exchanges and confirmed by email from senior executives— reduces competition between them to hire hospital personnel and therefore directly harms healthcare workers seeking competitive pay and working conditions. Defendants have monitored each other's compliance with this unlawful agreement, and deviations have been called out in an effort to enforce compliance. . . .

The DOJ's conclusion to this section is particularly relevant here:

> This history of coordination between Defendants increases the risk that the additional entanglements created by the partial-acquisition agreement will lead Geisinger and Evangelical to coordinate even more closely at the expense of consumers when it is beneficial for them to do so. Moreover, this history makes clear that Defendants' self-serving representations about their intent to continue to compete going forward—despite all of the entanglements created by the partial-acquisition agreement—cannot be trusted.

Compl. ¶ 43 (emphasis added).

Even without this history, the entanglements raise unjustifiable antitrust risks. With this history, the result is even more certain. These entities are not entitled to the benefit of the doubt at the expense of consumers.

Finally, the Margin Guarantee has nothing to do with, and is severable from, the tiering provision in the Addendum. As Paragraph 66 of the Complaint recognizes:

> Evangelical's placement in the most favored tier of Geisinger Health Plan's commercial insurance products does not require the partial-acquisition agreement. To the contrary, agreements between hospitals and insurers that offer favorable placement in commercial insurance products in exchange for favorable rates are common and do not require the entanglements created by the partial-acquisition agreement.

This logic also applies to the Margin Guarantee. This entanglement is not necessary to effectuate tiering. The Margin Guarantee was part and parcel of the original, anticompetitive Collaboration Agreement, designed to foster collaboration, not competition. Recall, the parties' preferred outcome was a complete merger. Compl.

[31] In the ''but for'' world without the Margin Guarantee, assuming that Evangelical raises rates to UPMC and UPMC loses employers to Geisinger, if Geisinger's reimbursement rates are lower, Evangelical would lose revenue. With the Margin Guarantee, Evangelical no longer has to consider that potential revenue loss from the rate increase to UPMC or another similarly situated payer.

[32] *See* PHILLIP E. AREEDA & HERBERT HOVENKAMP, ANTITRUST LAW: AN ANALYSIS OF ANTITRUST PRINCIPLES AND THEIR APPLICATION ¶ 651b5 (4th and 5th ed. 2013–20) (''Several anticompetitive actions by dominant firms are best explained as efforts to limit rivals' market access by increasing their costs. Such strategies may succeed where more aggressive ones involving the complete destruction of rivals might not. Once rivals' costs have been increased, the dominant firm can raise its own price or increase its market share at the rivals' expense.''); Thomas G. Krattenmaker & Steven C. Salop, *Anticompetitive Exclusion: Raising Rivals' Costs to Achieve Power over Price,* 96 YALE L.J. 209 (1986).

[33] *See Alpha Upsilon Chapter of Fraternity of Beta Theta Pi, Inc.* v. *Pennsylvania State Univ.,* No. 4:19–cv–01061, 2019 WL 5892764, at *10–11 (M.D. Pa. Nov. 12, 2019) (denying motion to dismiss claim for breach of the implied covenant of good faith and fair dealing); *Somers* v. *Somers,* 613 A.2d 1211, 1213 (Pa. Super. 1992) (''certain strains of bad faith which include: ''e''vasion of the spirit of the bargain'').

¶ 23. The Margin Guarantee, like all the other provisions, was drafted (*i.e.,* ''concocted'') to replicate that goal as much as feasible.

Evangelical and Geisinger should not be permitted to maintain ''additional entanglements created by the partial acquisition agreement.''

It Subsidy and Entanglement by Horizontal Competitor

Another key anticompetitive legacy issue from the original Collaboration Agreement remains: Geisinger's extraordinary subsidy of and entanglement in its main competitor's IT systems. The IT Entanglement was part of the original Collaboration Agreement because Geisinger and Evangelical expected to cease (or at least substantially reduce) mutual competition. The CIS summarily concludes that ''the provision of upgraded health records software and other support software is unlikely to prevent Evangelical from collaborating with other healthcare providers.'' CIS at 16. But the DOJ does not have ''a crystal ball to forecast'' how this IT Entanglement will work, and lacks experience with this unique situation.[34] For the reasons below, the DOJ conjecture is likely incorrect. As a result, the IT Entanglement should also be reconsidered and eliminated.

The Complaint recognizes that Evangelical had the financial ability to improve its IT without this collaboration.[35] And, as the DOJ has pointed out, Geisinger's outlays to Evangelical are not for altruistic purposes. *See* Compl. ¶ 6. If not for altruism, then why would Geisinger assist its main competitor to become even marginally more competitive? The answer, once again, is that Geisinger has its eye on the prize—ensuring its dominant competitive position in the market by reducing Evangelical's independence and the likelihood that Evangelical would collaborate with another entity to become a significantly more effective competitor. UPMC is well aware that independent community hospitals cherish their independence, and collaborate only when necessary. By effectively taking Evangelical's IT expenses off the table, Geisinger achieves its objective. Furthermore, Geisinger is not just subsidizing IT; rather, Geisinger is entangling itself within the Evangelical IT system.[36] This entanglement will give Geisinger, the dominant provider and payer in the market, a further advantage over any other competition, of which there already is very little.[37]

As before, the IT Entanglement should be examined, not in a vacuum, but informed by the anticompetitive purpose of the original Collaboration Agreement. And the big picture is clear. Prior to the deal, Evangelical was in a ''strong financial position, had been profitable for the last five years,'' and had the financial ability to fund capital improvement projects. Compl. ¶ 65. Meanwhile, Evangelical was considering a partnership with UPMC or others. The Complaint alleges that Geisinger was aware of that threat, and wanted to prevent it. This motive leads to the following alternative, yet realistic, view of the but for world:

- Geisinger believed that Evangelical was considering partnering with UPMC. Compl. ¶ 22. Geisinger knew that such a partnership would increase competition and be unfavorable for Geisinger's dominant position. Compl. ¶ 3. Geisinger believed that it needed to prevent a UPMC-Evangelical collaboration. Compl. ¶ 30.
- Geisinger would have preferred a full acquisition of Evangelical, but also soon realized that such a transaction would be blocked on antitrust grounds. Compl. ¶ 23.
- As a fallback, Geisinger and Evangelical sought to ''concoct'' a partial acquisition, Compl.¶ 24, but that arrangement too might be blocked.
- As a further attempt to prevent a relationship between UPMC and Evangelical, Geisinger decided to offer an arrangement whereby Evangelical remains technically independent, but will become entangled and collaborate closely with Geisinger.
- Geisinger offers to pay the vast majority of Evangelical's significant IT expenses, requiring Evangelical's dependence on Geisinger for technology licenses and operational support, as well as significant information sharing over the course of a decade.

This is essentially the state of the world. Geisinger should have no incentive to assist its main adversary. So why do it? To reduce the risk of Evangelical partnering with UPMC or another entity that might pose an increased competitive threat to Geisinger. Prior to the negotiations over the original Collaboration Agreement, the parties were negotiating an IT license. The value of the IT license to Geisinger was estimated at $10 million alone;[38] thus, the Second Amended Collaboration Agreement will reduce that revenue to only $1.5 million, a windfall of $8.5 million for Evangelical (in addition to the $20.3 million). It is unlikely that this IT Entanglement represents an arms-length transaction between competitors; Geisinger expects Evangelical to hold up its end of the deal, and these provisions provide assurances that this will occur.

This is another anticompetitive ''win-win'' for Geisinger and Evangelical, which nominally maintains Evangelical's independence while becoming dependent on Geisinger's largesse, thereby reducing its threat to Geisinger's dominance. But it is a significant loss for health care consumers in the region, who might have benefitted from more vigorous competition to Geisinger's stronghold on both medical services and insurance in the relevant market.

With respect to the likely anticompetitive effects, the most appropriate analogy to the substantial IT discounts provided by Geisinger to Evangelical involves the branded-generic pharmaceutical reverse payment cases.[39] As the courts now recognize, the large and unjustified flow of anything of value from a dominant firm to a competitor in the wrong direction is suspect. *See King Drug Co. of Florence, Inc.* v. *SmithKline Beecham Corp.,* 791 F.3d 388, 404 (3d Cir. 2015) (stating ''reverse payments are problematic because of their potential to negatively impact consumer welfare by preventing the risk of competition'' and recognizing that certain non-cash transfers ''are likely to present the same types of problems as reverse payments of cash.''). Here, Geisinger is effectively transferring substantial revenue to a competitor to avoid a threat of increased competition.[40] As in the pay-for-delay cases, finding a valid business reason for such a flow of consideration is not easy, and the DOJ did not suggest any justification in its Competitive Impact Statement.[41] Bestowing millions of dollars of discounts on Evangelical should evoke as much suspicion as above market sales, particularly when the discounts are born from an anticompetitive collaboration.

The example of Susquehanna Health, now UPMC Susquehanna, is instructive here. As mentioned above, Susquehanna joined UPMC in 2016, after rebuffing advances from Geisinger similar to those made to Evangelical. Geisinger had offered to provide for all of Susquehanna's needed IT expenditures, which were valued at tens of

[34] *Cf. Comcast Corp.,* 808 F. Supp. 2d at 149; CVS Health, 407 F. Supp. 3d at 50–51 (rejecting DOJ conclusion that foreclosure ''is unlikely to occur,'' because absent supporting evidence and explanation, the response is ''little more than a bald assertion that it is right and the AMA is wrong'').

[35] Compl. ¶¶ 64–65.

[36] There are two means by which a ''donor'' under the Stark Act might provide IT subsidies. The first involves the donee dealing directly with the EMR. The other puts the donor between the EMR and the donee, which involves more entanglement. The Agreement here seems to contemplate the latter.

[37] The Complaint alleges that UPMC has approximately 27% of the relevant market. But this substantially overstates UPMC's position. The DOJ's estimated share is an artifact of the reality that Evangelical's service area stretches as far north as Williamsport, home of a major UPMC hospital. This artificially boosts the apparent competitive significance of UPMC. In fact, there are very few zip codes where any material overlap between UPMC and Evangelical exists. Geisinger and Evangelical are the only two significant competitors in the vast majority of Evangelical's service area.

[38] Compl. ¶ 29.

[39] *King Drug Co. of Florence, Inc.* v. *SmithKline Beecham Corp.,* 791 F.3d 388, 402 (3d Cir. 2015) (quoting *FTC* v. *Actavis, Inc.,* 570 U.S. 136, 140–41 (2013)) (''In a reverse payment settlement, the patentee ''pays money . . . purely so [the alleged infringer] will give up the patent fight.'' These payments are said to flow in 'reverse' because 'a party with no claim for damages (something that is usually true of a paragraph IV litigation defendant) walks away with money simply so it will stay away from the patentee's market.' '').

[40] While it is true that the consideration in Actavis resulted in express contractual commitments not to compete, that distinction is not material in this context; rather the consideration (part of the partial collaboration) results in the same anticompetitive effects- reduced competition in the relevant market.

[41] *Cf. In re High Fructose Corn Syrup Antitrust Litig.,* 295 F.3d 651, 659 (7th Cir. 2002) (emphasis in original) (when one competitor sources from another competitor at a higher cost than internal production, this could signify that the conduct ''is a way of shoring up a sellers' cartel by protecting the market share of each seller.''); *In re Titanium Dioxide Antitrust Litig.,* 959 F. Supp. 2d 799, 815 (D. Md. 2013) (''Instead of competing for Millenium's customers, DuPont appears to have provided help to Millennium, selling titanium dioxide at a rate lower than that on the market.''); *In re Ethylene Propylene Diene Monomer (EPDM) Antitrust Litig.,* 681 F. Supp. 2d 141 (D. Conn. 2009) (holding that selling to a competitor at below market prices created an inference of a price-fixing conspiracy).

millions of dollars. Had Susquehanna received that money from Geisinger, or a subsidy like that contemplated here, Susquehanna's incentive to join UPMC would have been reduced. And even if it had remained technically ''independent,'' it would have become dependent on Geisinger's aid, to the detriment of consumers in the region. The same is true here.

Leaving aside Geisinger's interference with Evangelical's path toward becoming a stronger competitor to Geisinger, the IT arrangement thoroughly entangles Geisinger with Evangelical. Evangelical will become dependent on Geisinger to provide and manage the key IT systems required for the successful management of Evangelical's health care operations and patient care. And aside from dependency on Geisinger's subsidies, the difficulty and cost of potentially having to uproot and integrate a new IT system in the future will make Evangelical even more hesitant to cross Geisinger for fear that its infrastructure may also be at risk. This will further reduce competition in the market. The Complaint repeatedly references the fact that the entanglements between Evangelical and Geisinger bode ill for consumers. Although DOJ has accomplished a number of disentanglements, the IT Entanglement, like the Margin Guarantee discussed above, still remain and create unnecessary competitive risks.

As any healthcare provider understands, today's healthcare delivery is heavily dependent on the utilization of a modern Electronic Medical Record (''EMR'') system, which impacts boththe physician and patient. The Second Amended Collaboration Agreement at issue outlines the IT Entanglement as follows:

- Geisinger ''will provide its electronic medical system records systems (EPIC and related embedded clinical systems, including a license to the embedded Geisinger intellectual property) at an 85% discount'' to Evangelical;
- Geisinger will provide support for such systems at an 85% discount to Evangelical; and
- The parties will enter an IT sharing agreement, whereby Geisinger will provide additional back office systems to Evangelical at commercially reasonable rates.[42]

Every EMR system is different; in fact, an EMR provided by Epic Systems at two different hospitals will often be different from one another in meaningful ways, which can limit their interoperability. The goal for EMRs is to allow providers to exchange information and seamlessly integrate it into their own systems.[43] Laws, regulations, and standards establish some EMR interoperability requirements, but actual true, complete, and seamless interoperability between different EMR's is dependent on implementation.[44]

Under the Second Amended Collaboration Agreement, like the original version, Evangelical will be brought into Geisinger's version of Epic, meaning that Geisinger and Evangelical will be on an integrated EMR infrastructure. Patient referrals between Evangelical and Geisinger will be easier within the integrated platform. Patient records will be easier to access across Evangelical and Geisinger. Patient scheduling will be fluid between Evangelical and Geisinger provider facilities.

In the abstract, one might conclude these are unambiguously procompetitive efficiencies, but the reality is that Evangelical could achieve any such efficiencies either on its own or with ''affiliation with a partner other than its primary competitor.''[45] As a result, likely anticompetitive effects outweigh any such efficiencies. The IT Entanglement is inextricably linked to the goals of the original collaboration: Bringing Evangelical into the Geisinger fold and making it more difficult for others to compete with the collaboration. Geisinger and Evangelical intended their IT integration to be seamless; there is no suggestion they intended that others share their outcome. Yet, the IT Entanglement remains essentially unchanged. Other providers and payers will face more friction when trying to work with Evangelical or compete for patients. And in furtherance of the collaboration's goal to insulate Geisinger and Evangelical from outside competition, they will likely ''make it harder than it needs to be (legally or technically) for patients to take their data to other [health care organizations] because this can inhibit patients or customers from moving their business to competing providers.''[46]

Of particular interest here, the discussion of recent Medicare Program amendments acknowledges that a prohibition on information blocking was intended to ensure the ''policy goal of fully interoperable health information systems and will not be misused to steer business to the donor [hospital].''[47] While UPMC has no reason to believe that total ''information blocking'' will occur, UPMC is concerned that Geisinger will necessarily gain an unfair competitive advantage through the IT Entanglement and subsequent additional entanglements if those legacy provisions are not eliminated from the Second Amended Collaboration Agreement.[48]

As one example, because the agreement apparently anoints Geisinger as Evangelical's IT gatekeeper, when the inevitable technological glitch arises between UPMC (or United or Aetna) and Evangelical, Geisinger apparently would be responsible for fixing the problem.[49] That alone should raise concerns. Similarly, the Office of the National Coordinator for Health Information Technology (''ONC'') explains that, under the Cures Act Final Rule:

> It will not be information blocking if an actor does not fulfill a request to access, exchange, or use EHI due to the infeasibility of the request, provided certain conditions are met.''
>
> It will not be information blocking for an actor to charge fees, including fees that result in a reasonable profit margin, for accessing, exchanging, or using EHI, provided certain conditions are met.[50]

Geisinger and Evangelical also have other means at their disposal to make patient transfers to other providers more difficult. Those include making it difficult to match patients' health records stored across different systems[51] and making it ''challenging to establish the governance and trust'' related to patient information exchange practices.[52] By subsidizing, supporting, and essentially controlling Evangelical's IT, the IT Entanglement further solidifies the relationship between the two

[42] *See* Second Amended Collaboration Agreement, § 6.5, ECF No. 51–3, at 9.

[43] U.S. GOV'T ACCOUNTABILITY OFF., GAO–15–817, ELECTRONIC HEALTH RECORDS NONFEDERAL EFFORTS TO HELP ACHIEVE HEALTH INFORMATION INTEROPERABILITY 4 (2015) [hereinafter GAO INTEROPERABILITY REPORT], *https://www.gao.gov/assets/gao-15-817.pdf.*

[44] *See* Lucia Savage, Martin Gaynor, and Julia Adler-Milstein, *Digital Health Data and Information Sharing: A New Frontier for Health Care Competition?,* 82 ANTITRUST L. J., 593, 604 (2019) [hereinafter *Health Care Competition?*]; GAO INTEROPERABILITY REPORT 1–2; 12 (''Stakeholders and representatives from the selected EHR initiatives described five key challenges to achieving EHR interoperability; (1) insufficiencies in standards for EHR interoperability, (2) variation in state privacy rules, (3) accurately matching patients' health records, (4) costs associated with interoperability, and (5) need for governance and trust among entities.''). *See also id.* at 596 (''Whether these provisions will be sufficiently strong to overcome firms' incentives to engage in information blocking remains an open question.'').

[45] *Cf.* FED. TRADE COMM'N, FED. TRADE COMM'N STAFF SUBMISSION TO THE SOUTHWEST VIRGINIA HEALTH AUTHORITY AND VIRGINIA DEPARTMENT OF HEALTH REGARDING COOPERATIVE AGREEMENT APPLICATION OF MOUNTAIN STATES HEALTH ALLIANCE AND WELLMONTHEALTH SYSTEM 35 (2016), *https://www.ftc.gov/system/files/documents/advocacy_documents/submission-ftc-staff-southwest-virginia-health-authority-virginia-department-health-regarding/160930wellmontswvastaffcomment.pdf.* FTC staff concluded that many of the purported efficiencies were not significant, and to the extent that they could be validated, were achievable by less restrictive means. *Id.* at 34–36.

[46] *Id.* at 604.

[47] Medicare Program; Modernizing and Clarifying the Physician Self-Referral Regulations, 85 FR 77492, 77611 (Dec. 2, 2020) (Final Rule).

[48] *Health Care Competition?* at 596 (short of an outright information block, defendants still can ''engage[ ] in practices that impede efficient access and use of the data by competitors or other individuals or entities.'').

[49] *See* Second Amended Collaboration Agreement, § 6.5, ECF No 51–3, at 9; EPIC SYSTEMS CORP., *ONC Health IT Certification Details,* at 3 (May 18, 2021) (where ''[a]n Epic client extends access to its EHR to a hospital . . . [t]he Epic client's IT staff provide installation and ongoing support services.''), *https://www.epic.com/docs/mucertification.pdf.*

[50] *Information Blocking,* ONC'S CURES ACT FINAL RULE, *https://www.healthit.gov/curesrule/final-rule-policy/information-blocking* (last visited May 30, 2021).

[51] GAO INTEROPERABILITY REPORT at 13.

[52] *Id.* at 14 (''These governance practices can include organizational policies related to privacy, information security, data use, technical standards, and other issues that affect the exchange of information across organizational boundaries. One stakeholder noted that it is important to establish agreements to ensure that entities share information openly with all other participants in a network.'').

largest providers in the market.[53] How the entangled Geisinger-Evangelical exercises potential discretionary acts to permit or impede interoperability is critical to how competition plays out in the region.[54] There is no mechanism in the PFJ to assure that UPMC and others are not disadvantaged. Given ''the history of coordination between Defendants,'' and the fact that the IT Entanglement, like the Margin Guarantee, was an integral part of the original collaboration agreement, no ''self-serving representations about their intent to continue to compete'' can overcome the logic and intuition that this Entanglement is bad for consumers.

Further, once Evangelical is fully integrated into the Geisinger technology ecosystem, this arrangement will give Geisinger additional leverage over Evangelical, which will be dependent on both the use of the EMR system and Geisinger's technical support to operate it. UPMC is unaware of any other instance where a dominant health system has subsidized an EMR system for its closest hospital competitor. It is simply unheard of to fund—to the point of a near giveaway—such a crucial resource in these circumstances. Geisinger and Evangelical together already possess a ''dominant position'' in the relevant inpatient general acute-care market, with a combined share greater than 70%. Compl. ¶ 41, 64. And the existence of significant barriers to entry, id. at ¶ 68, as well as their history of ''co-opetiton''—''coordinat[ing] their activity to 'find wins' at the expense of robust competition,'' id. at ¶ 27—demonstrates this subsidy will lead to further dominance of the relevant market. Finally, as the DOJ recognized, there are less restrictive alternatives available for Evangelical to upgrade its IT system. See Compl. ¶ 65 (''Evangelical also could have obtained funds for capital improvements from sources other than Geisinger, its closest competitor.'').

The Second Amended Collaboration Agreement refers to ''an existing Anti-Kickback and Stark Safe Harbor.'' *See Second Amended Collaboration Agreement* at Section 6.5. Presumably it refers to Stark Act exceptions (42 CFR 1001.952(y) and 42 CFR 411.357(w)), which, under certain circumstances, permit institutions, like hospitals or health plans, to subsidize IT upgrades to physicians and physician practices. Because these relationships are primarily vertical, the potential efficiencies are easily understood. Here, however, the Complaint recognizes that the relationship between Geisinger and Evangelical is also heavily horizontal—they are competitors. Payments between horizontal competitors under these circumstances have the risks identified above. And while 42 CFR 1001.952(y) and 42 CFR 411.357(w) may allow the provision of IT systems in some circumstances, even if applicable here, they would not convey any antitrust immunity on the parties. Cf. *FTC* v. *Phoebe Putney Health Sys., Inc.*, 568 U.S. 216, 228 (2013) (''while the Law does allow the Authority to acquire hospitals, it does not clearly articulate and affirmatively express a state policy empowering the Authority to make acquisitions of existing hospitals that will substantially lessen competition''). Similar to Phoebe, a hospital might have authority to merge, but that does not provide the hospital with the right to violate Section 7 of the Clayton Act or Section 1 of the Sherman Act.

UPMC does not contend that an arms-length license between Geisinger and Evangelical would be per se unlawful. As the Complaint recognizes, ''Defendants were in discussion to do so long before this transaction was under consideration.'' Compl. ¶ 64.

However, the terms likely would have been much different absent the Margin Guarantees and the $20 million payment that Evangelical is permitted to retain as part of this settlement. If this transaction is voided, Evangelical loses the Margin Guarantee and potentially has to pay back the $20 million. Without those side payments, Evangelical might not be so quick to lock itself into Geisinger's IT for the foreseeable future. The legality of such a license need not be decided today; rather it is only necessary to understand that the contemplated license, part of the original Collaboration Agreement, was created in anticipation of, and has the effect of, a reduction in competition.

Sharing Competitively Sensitive Information With a Horizontal Competitor

Finally, the PFJ fails to resolve concerns raised in the Complaint about the ability of Geisinger and Evangelical to exchange competitively sensitive information under various provisions of the Second Amended Collaboration Agreement. *See* CIS at 14–15.

As the DOJ and FTC's *Antitrust Guidelines for Collaborations Among Competitors* state:

> [T]he sharing of information related to a market in which the collaboration operates or in which the participants are actual or potential competitors may increase the likelihood of collusion on matters such as price, output, or other competitively sensitive variables. The competitive concern depends on the nature of the information shared. Other things being equal, the sharing of information relating to price, output, costs, or strategic planning is more likely to raise competitive concern than the sharing of information relating to less competitively sensitive variables.[55]

Here, Paragraph B.6 of the Addenda expressly requires Geisinger and Evangelical to share some competitively sensitive information on a monthly basis throughout the year as part of an annual review and rate reset.[56] The provision also calls for the parties to review ''relevant information . . . such as [Geisinger] Health Plan commercial volume at [Evangelical], total revenue received by [Evangelical] from [Geisinger] Health Plan commercial members, [Evangelical] costs, case mix, etc.''[57]

Insurers do not receive cost information from providers as there is simply no reason to give it. Even more problematic is the case here, where a vertically integrated provider and health plan, such as Geisinger, receives cost information from another provider—and particularly its closest competitor. In fact, UPMC, which also operates as a vertically integrated provider and health plan, has never received cost information from competitive third-party providers and UPMC does not share its cost structure with any insurer. Information sharing raises red flags and could facilitate collusion between competitive providers operating in the same market.

The Addenda do not require installation of a firewall between Geisinger Health Plan and Geisinger providers—nor would a firewall be sufficient in this circumstance. Firewalls come with some risk of circumvention. Therefore, firewalls are typically only used in antitrust matters as a last resort to enable a procompetitive benefit. But as the Complaint states, there are no procompetitive benefits here. *See* Compl. ¶ 67. As a result, even if the PFJ were to require a more comprehensive firewall regarding Evangelical's cost data, the public would still bear the risks of competitive harm without any corresponding benefit.

The public also bears risks associated with the information Geisinger and Evangelical intend to share because the provisions in this paragraph are vague and not fully defined. What type of information do Geisinger and Evangelical intend to share through the indeterminate term ''etc.''? In the event the Margin Guarantee survives, UPMC encourages the DOJ to require Geisinger and Evangelical to delete the term ''etc.'' and require Geisinger and Evangelical to state exactly what information they have agreed to share. The DOJ should then assess (or reassess) the potential for anticompetitive harm from the information sharing.

The Addenda also raise additional concerns that Evangelical may share rate information of other health plans, such as UPMC, with Geisinger Health Plan. Although the Addenda state, ''[a]ctual payer rates shall not be shared between the parties,''[58] the Margin Guarantee scheme devised by Evangelical and Geisinger requires comparison between the margins paid by Geisinger and other health plans for Evangelical patients won by Geisinger. Even if rate information is not shared directly, margin information supplied by Evangelical, combined with Geisinger's payer- side knowledge, could allow Geisinger to derive Evangelical's provider rates for other health plans, including those of UPMC.

Exhibit A to the Addenda,[59] illustrates how this happens. In the example with ''decreased margin,'' Geisinger's rates with Evangelical increase if it takes a patient

[53] *Cf. id.* at 595 (''Holding on to data may allow market participants to maintain, and in some cases enhance, their market position.'').

[54] *Id.* at 607 (''strategies for data holders to impede data transfer and thwart competition . . . may be a version of the strategy of raising rivals' costs to thwart competition.'').

[55] DEP'T OF JUSTICE AND FED. TRADE COMM'N., ANTITRUST GUIDELINES FOR COLLABORATIONS AMONG COMPETITORS 15 (2000) (emphasis added), *https://www.ftc.gov/sites/default/files/documents/public_events/joint-venture-hearings-antitrust-guidelines-collaboration-among-competitors/ftcdojguidelines-2.pdf.*

[56] ECF No. 51–3, at 56 (§ B.6), at 61 (§ B.6).

[57] *Id.*

[58] ECF No. 51–3 at 59, 64.

[59] *Id.*

receiving care at Evangelical who is insured by a health plan that has higher rates at Evangelical than does Geisinger. Likewise, in the example with ''increased margin,'' Geisinger's rates with Evangelical decrease if Geisinger takes a patient receiving care at Evangelical who is insured by a health plan that has lower rates at Evangelical than does Geisinger. And, of course, Geisinger knows its own provider rates at Evangelical. With this information, a simple comparison allows Geisinger to gain great insight into other health plans' rates at Evangelical depending on whether Geisinger's rates go up or down.

We have attempted to identify some of the potential competitive harms that could arise if Geisinger Health Plan learns its competitors' rates at Evangelical. Suffice it to say that this type of information sharing is not in the public interest. We encourage the DOJ to modify the PFJ to resolve this concern.

Requested Modifications

For the reasons detailed above, UPMC urges the total elimination of the Second Amended Collaboration Agreement, including the Margin Guarantee and IT Entanglement.[60]

In the event that the DOJ declines that remedy, there are other options that would improve the relief:

- Include a provision whereby the DOJ monitors Evangelical's actions with respect to UPMC and other payers. This should include maintaining authority to intervene for some period in the event that Evangelical terminates provider contracts with UPMC or others absent exigent circumstances, or imposes rate increases out of line with commercial realities.
- As a condition of permitting the 7.5% ownership, Margin Guarantee, and IT Entanglement provisions, require that Evangelical enter into a 10-year contract with UPMC Health Plan on reasonable terms and conditions.[61]
- Insofar as the Geisinger IT Entanglement will effectively lock-in Evangelical to the whims of Geisinger, develop and include provisions that ensure that Geisinger cannot use this leverage to punish Evangelical for collaborating in any fashion with UPMC or others. More generally, the DOJ should include a mechanism whereby it can assure that other payers are not disadvantaged.[62]
- Impose stronger protections to ensure that payer information obtained by Evangelical is not shared with Geisinger, in the course of rate discussions pertaining to the Margin Guarantee or otherwise, including in any form that could allow Geisinger to derive price, cost, or margin information about other payers.

Conclusion

The risk of doing nothing here far exceeds the risk from taking action. If UPMC is correct about the likely competitive harm of the legacy provisions discussed, and nothing is done, a duopoly with a pre-existing pattern of ''co-opetition'' becomes more intertwined, and an already concentrated market becomes even less competitive. Indeed, with Geisinger constantly in Evangelical's ear, it is conceivable that Evangelical could follow Geisinger's example and not provide UPMC Health Plan with a provider contract.[63] Currently, Evangelical has no reason not to contract with UPMC. However, if Geisinger persuades Evangelical to cancel the UPMC contract, consumers would lose out on competition by UPMC for a variety of health plans, including Medicare and Special Needs Plans (''SNPs''), Medicaid, and Community Health Choices (''CNC'') plans.[64] A remedy for such an action would be difficult, and Evangelical would argue that termination was in its independent interest, given the incentives in the Second Amended Collaboration Agreement provisions at issue.[65]

The best ''prediction of [these provision's] impact upon competitive conditions in the future,''[66] absent additional relief, is harm to consumers in the relevant market. Under such conditions, the DOJ should take additional steps to ensure that the remedy comports with the harms alleged in the Complaint.

Sincerely,

Richard B. Dagen
Keith Young

[REDACTED]

Eric Welsh

In regards to the decision to limit the scope of the Geisinger-Evangelical Hospital merger. This idea was presented to the public as a partnership, not a merger. While technically they are very similar, to a layman such as I the word merger has a more ominous sound. Thus merger was not used in the press releases.

Geisinger and its regional competitor UPMC have been systematically purchasing small local community hospitals. In the case of UPMC purchasing and then closing the Sunbury Comm. Hosp. While this is a gain to their business structure the local citizenry now has few options in find quality and affordable healthcare

I'm sure that what I see as a local issue you can see it on the national stage and that is the fact that this countries medical system is being taken over by conglomerates.

It is actually very similar to going to a supermarket. You see endless choices until you look closer. You see Heinz Ketchup, Nabisco cookies, Coke & Pepsi. They all have multiple varieties of their own product but in reality, the consumer is locked into a limited diversity of choices.

You have the power to make sure people looking for good affordable health care have that choice.

Respectfully,

Keith A. Young

RE: Geisinger/Evangelical Merger

[REDACTED]

March 8, 2021

Dear Mr. Welsh,

I have been a patient at both Geisinger and Evangelical facilities. Both are fine establishments, however, there is a huge difference in atmosphere and friendliness as well as cost.

Evangelical is a community based, friendly hospital as opposed to the giant Geisinger which has acquired many private practice physician offices as well as Bloomsburg Hospital and Shamokin Hospital. These were both small home-town hospitals prior to Geisinger's acquisition.

We are located in a rural area that is being dominated by large corporations where the profit comes before the patient.

The average income in this area is moderate and even with health insurance, out-of-pocket expenses can be taxing to patients.

Patient care is of the essence. Evangelical can give patients the best care by remaining an independent community hospital.

Competition is essential and Geisinger and UPMC are trying to eliminate it.

Please do *not* let Geisinger acquire Evangelical Hospital.

Sincerely,

Sandy Young

[60] Although the approximate $20 million payment helps Geisinger achieve its objective of preventing Evangelical from teaming up to become a stronger competitor, UPMC believes that (a) requiring repayment would be unduly disruptive; and (b) the removal of the other provisions will go a long way toward restoring the status quo ante.

[61] UPMC wishes to emphasize that this proposal relates only to the partial acquisition, and is not relief that should be imposed on Evangelical if the transaction is voided.

[62] See UNITED STATES DEP'T OF JUSTICE, ANTITRUST DIVISION POLICY GUIDE TO MERGER REMEDIES 14–16 (2011) (discussion of use of non-discrimination, transparency, and anti-retaliation provisions in conduct remedies), *https://www.justice.gov/sites/default/files/atr/legacy/2011/06/17/272350.pdf.*

[63] Also, if this case presents a false positive—that is, assuming arguendo that the provisions are not actually anticompetitive—the worst case ''harms'' are that Evangelical has to purchase its IT at fair market value and continues with its previous payer contract with Geisinger. These cannot really be characterized as cognizable harms to competition.

[64] The loss of competition would not be easily repaired. See *United States* v. *Aetna Inc.,* 240 F. Supp. 3d 1, 57 (D.D.C. 2017) (regarding Medicare Advantage, ''the expert analysis and the other evidence paint a picture of new entry not being particularly likely, and the barriers to entry being high.'').

[65] *Cf. United States* v. *Phila. Nat. Bank,* 374 U.S. 321, 362 (1963) (Section 7 of the Clayton Act ''was intended to arrest anticompetitive tendencies in their 'incipiency.' ''); H. Hovenkamp, *Prophylactic Merger Policy,* 70 HASTINGS L. REV. 45, 48 (2018) (''Incipiency tests for mergers are most valuable in cases where a merger is likely to lead to conduct or behavior that is both anticompetitive and also is difficult or impossible for antitrust law to reach once the merger has occurred.'').

[66] *FTC* v. *Penn State Hershey Med. Ctr.,* 838 F.3d 327, 344 (2016) (quoting *Phila. Nat. Bank,* 374 U.S. at 362).

[FR Doc. 2021–19800 Filed 9–13–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Update With Changes, of a Previously Approved Collection Which Expires November, 2021: Department of Justice Equitable Sharing Agreement and Certification

AGENCY: Money Laundering and Asset Recovery Section, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Money Laundering and Asset Recovery Section, Criminal Division, 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. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until November 15, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Carly Diroll-Black, Senior Attorney Advisor, Money Laundering and Asset Recovery Section, 1400 New York Avenue NW, Washington, DC 20005 (phone: 202–616–1494).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Update with changes, of the Department of Justice Equitable Sharing Agreement and Certification, a previously approved collection for which approval will expire on November 30, 2021.

2. *The Title of the Form/Collection:* Department of Justice Equitable Sharing Agreement and Certification.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is not an agency form number. The applicable component within the Department of Justice is the Money Laundering and Asset Recovery Section (''MLARS''), in the Criminal Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The Attorney General is required by statute to ''assure that any property transferred to a State or local law enforcement agency . . . will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.'' 21 U.S.C. 881(e)(3). MLARS ensures such cooperation by requiring that all such ''equitably shared'' funds be used only for law enforcement purposes and not be distributed to other governmental agencies by the recipient law enforcement agencies. By requiring that law enforcement agencies that participate in the Equitable Sharing Program (Program) file an Equitable Sharing Agreement and Certification (ESAC), MLARS can readily ensure compliance with its statutory obligations.

The ESAC requires information regarding the receipt and expenditure of Program funds from the participating agency. Accordingly, it seeks information that is exclusively in the hands of the participating agency.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 6,000 state and local law enforcement agencies electronically file the ESAC annually with MLARS. It is estimated that it takes 30 minutes per year to enter the information. All of the approximately 6,000 agencies must fully complete the form each year to maintain compliance and continue participation in the Department of Justice Equitable Sharing Program.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 3,000 hours. It is estimated that respondents will take 30 minutes to complete the form. (6,000 participants × 30 minutes = 3,000 hours).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: September 8, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–19749 Filed 9–13–21; 8:45 am]

BILLING CODE 4410–14–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 21–059]

National Space Council Users' Advisory Group; Public Nominations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Invitation for public nominations for potential service on the National Space Council Users' Advisory Group.

SUMMARY: NASA announces an invitation for public nominations for potential members of the National Space Council Users' Advisory Group (UAG). The UAG is a Federal advisory committee under the Federal Advisory Committee Act (FACA) pursuant to the NASA Authorization Act, Fiscal Year 1991. The purpose of the UAG is to ensure that the interests of industry and other non-Federal entities are adequately represented in the deliberations of the National Space Council.

FOR FURTHER INFORMATION CONTACT: For any questions, please contact the UAG Designated Federal Officer/Executive Secretary, James Joseph Miller, NASA Headquarters, Washington, DC 20546, email: *jj.miller@nasa.gov;* phone: 202–262–0929.

SUPPLEMENTARY INFORMATION: NASA is sponsoring the UAG on behalf of the National Space Council, an Executive Branch interagency coordinating committee chaired by the Vice

President, which is tasked with advising and assisting the President on national space policy and strategy. Members of the UAG will serve either as ''Representatives'' (*i.e.,* representing industry, other non-Federal entities, and other recognizable groups of persons involved in aeronautical and space activities), or as ''Special Government Employees'' (SGEs, *i.e.,* individual subject matter experts or consultants). Membership will be a mix of Representatives and SGEs, and be balanced to ensure diversity and sector expertise as reflected by the National Space Council. Nominees will be evaluated on merit, subject matter expertise, and track record of contributions and accomplishments aligned with National Space Council goals.

Deadline: The deadline for NASA to receive all public nominations is September 27, 2021.

Instructions for Public Nominations: Persons or organizations may nominate individuals for consideration as potential members of the UAG. Interested candidates may also self-nominate. The candidate may not be a regular Federal Government employee, and must not be registered by the Department of Justice under the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.* Additionally, a candidate for SGE appointment must not be Federally registered as a lobbyist under the Lobbying Disclosure Act of 1995, 2 U.S.C. 1602, as amended. Nominations must be contained in an email to NASA attaching the required documents. All nominations should include a cover letter, a resume (including contact information for the individual) and/or a professional biography demonstrating professional stature, knowledge and experience commensurate with achieving the UAG's purpose as set forth in Public Law 101–611, Section 121. Each document must not exceed one page. The cover letter must be a signed letter saved as a PDF file, indicate the category of membership for which the individual is being nominated (''Representative'' or ''SGE''), and contain an affirmative statement that the individual meets all aforesaid requirements. Cover letters for Representative nominations must also indicate why the individual should be considered for membership, and be on the supporting organization's letterhead. Nominations must be submitted in a single email attaching the cover letter, resume, and/or professional biography to *nominations@spacecounciluag.org.* For more information about the National Space Council UAG to further support the nomination submission, please see: *https://www.nasa.gov/content/national-space-council-users-advisory-group.* Hard copies such as paper documents sent through postal mail will not be accepted.

Privacy Act Notification: The information provided in response to this announcement will support membership selection of the National Space Council Users' Advisory Group (UAG). Its collection is authorized by the Federal Advisory Committee Act (FACA), Public Law 92–463, 5 U.S.C. app., as amended; 5 U.S.C. 3109; Title V of Public Law 100–685; Public Law 101–611, Section 121; Executive Order 13803 of June 30, 2017, as amended by Executive Order 13906 of February 13, 2020, Section 6; and 44 U.S.C. 3101. Providing this information is voluntary, but not providing it or not providing it as requested may result in information or an individual not being considered in the UAG membership selection process. NASA may share this information for authorized purposes consistent with the purpose for which it is collected. Elaboration and conditions of information disclosure may be found under ''Routine Uses'' of the full System of Record Notice for System 10SPRE, ''Special Personnel Records'' (15–118, 81 FR10, pp. 2244–2247) at *https://www.gpo.gov/fdsys/pkg/FR-2016-01-16/pdf/2016-00689.pdf* and in Appendix B (11–091, 76 FR 200, pp. 64112–64114) at *https://www.gpo.gov/fdsys/pkg/FR-2011-10-17/pdf/2011-26731.pdf.*

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2021–19707 Filed 9–13–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

30-Day Notice for the ''2022 Survey of Public Participation in the Arts''

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure the requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection on arts participation in the U.S.: Clearance Request for NEA 2022 Survey of Public Participation in the Arts. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov.*

DATES: Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''National Endowment for the Arts'' under ''Currently Under Review;'' then check ''Only Show ICR for Public Comment'' checkbox. Once you have found this information collection request, select ''Comment,'' and enter or upload your comment and information. Alternatively, comments can be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Agency: National Endowment for the Arts.

Title: 2022 Survey of Public Participation in the Arts.

OMB Number: 3135–0136.

Frequency: One Time.

Affected Public: American adults.

Estimated Number of Respondents: 36,000.

Estimated Time per Respondent: 10.0 minutes.

Total Burden Hours: 6,000 hours.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: This request is for clearance of the 2022 Survey of Public Participation in the Arts (SPPA) to be conducted by the Census Bureau in July 2022 as a supplement to the Bureau of Labor Statistic's Current Population Survey. The SPPA is the field's premiere repeated cross-sectional survey of individual attendance and involvement in arts and cultural activity. The data are circulated to interested researchers, and they are the basis for a range of NEA reports and independent research publications. The SPPA provides primary knowledge on the extent and nature of participation in the arts and leisure in the United States. Earlier SPPA surveys were conducted in 1982, 1985, 1992, 1997, 2002, 2008, 2012, and 2017, all of which were conducted by the Census Bureau except the 1997 study, which was conducted by a private contractor, Westat Inc. Reports on these data will be made publicly available on the NEA's website. The data will be made available to the public through the agency's data archive, the National Archive of Data on Arts and Culture (NADAC). The SPPA will provide primary knowledge on the extent and nature of participation in the arts in the United States. These data will also be used by the NEA as a contextual measure for one or more of its strategic goals.

Dated: September 9, 2021.

Meghan Jugder,

Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2021–19775 Filed 9–13–21; 8:45 am]

BILLING CODE 7537–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Occupational Safety and Health Review Commission (OSHRC) is revising the notice for Privacy Act system-of-records OSHRC–6.

DATES: Comments must be received by OSHRC on or before October 14, 2021. The revised system of records will become effective on that date, without any further notice in the **Federal Register**, unless comments or government approval procedures necessitate otherwise.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: rbailey@oshrc.gov.* Include ''PRIVACY ACT SYSTEM OF RECORDS'' in the subject line of the message.
- *Fax:* (202) 606–5417.
- *Mail:* One Lafayette Centre, 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457.
- *Hand Delivery/Courier:* same as mailing address.

Instructions: All submissions must include your name, return address, and email address, if applicable. Please clearly label submissions as ''PRIVACY ACT SYSTEM OF RECORDS.''

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney-Advisor, Office of the General Counsel, via telephone at (202) 606–5410, or via email at *rbailey@oshrc.gov.*

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires federal agencies such as OSHRC to publish in the **Federal Register** notice of any new or modified system of records.

As detailed below, OSHRC is revising the name of the company that operates the government-only cloud in which electronic records are maintained, the physical location of the facility that maintains the cloud, and safeguards used at that facility.

In addition, OSHRC recently revised its Privacy Act regulations, 29 CFR pt. 2400, which resulted in the renumbering of its regulatory provisions. 85 FR 65222 (Oct. 15, 2020). OSHRC is therefore revising the following elements in this system-of-records notice to reference the correct sections of the agency's Privacy Act regulations: Record Access Procedures, Contesting Record Procedures, and Notification Procedures.

The notice for OSHRC–6, provided below in its entirety, is as follows.

SYSTEM NAME AND NUMBER:

E-Filing/Case Management System, OSHRC–6.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Electronic records are maintained in a government-only cloud within an Oracle Database, operated by Tyler Federal, LLC, at 44470 Chilum Place, Ashburn, VA 20148. Paper records are maintained by the Office of the Executive Secretary, located at 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457.

SYSTEM MANAGER(S):

Supervisory Information Technology Specialist (electronic records contained in the e-filing/case management system) and the Executive Secretary (all other records), OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457; (202) 606–5100.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 661.

PURPOSE(S) OF THE SYSTEM:

This system of records is maintained for the purpose of processing cases that are before OSHRC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records covers (1) ALJs; (2) Commission members and their staff; (3) OSHRC employees entering data into the e-filing/case management system, or assigned responsibilities with respect to a particular case; and (4) parties, the parties' points of contact, and the parties' representatives in cases that have been, or presently are, before OSHRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The electronic records contain the following information: (1) The names of those covered by the system of records and, as to parties, their points of contact; (2) the telephone and fax numbers, business email addresses, and/or business street addresses of those covered by the system of records; (3) the names of OSHRC cases, and information associated with the cases, such as the inspection number, the docket number, the state in which the action arose, the names of the representatives, and

whether the case involved a fatality; (4) events occurring in cases and the dates on which the events occurred; (5) documents filed in cases and the dates on which the documents were filed; and (6) the names of OSHRC employees entering data into the e-filing/case management system, or assigned responsibilities with respect to a particular case. The paper records are hard copies of the electronic records in the e-filing/case management system.

RECORD SOURCE CATEGORIES:

Information in this system is derived from the individual to whom it applies or is derived from case processing records maintained by the Office of the Executive Secretary and the Office of the General Counsel, or from information provided by the parties who appear before OSHRC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To the Department of Justice (DOJ), or to a court or adjudicative body before which OSHRC is authorized to appear, when any of the following entities or individuals—(a) OSHRC, or any of its components; (b) any employee of OSHRC in his or her official capacity; (c) any employee of OSHRC in his or her individual capacity where DOJ (or OSHRC where it is authorized to do so) has agreed to represent the employee; or (d) the United States, where OSHRC determines that litigation is likely to affect OSHRC or any of its components—is a party to litigation or has an interest in such litigation, and OSHRC determines that the use of such records by DOJ, or by a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation.

(2) To an appropriate agency, whether federal, state, local, or foreign, charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes civil, criminal or regulatory violations, and such disclosure is proper and consistent with the official duties of the person making the disclosure.

(3) To a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary, to obtain information relevant to an OSHRC decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a license, grant or other benefit.

(4) To a federal, state, or local agency, in response to that agency's request for a record, and only to the extent that the information is relevant and necessary to the requesting agency's decision in the matter, if the record is sought in connection with the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a license, grant or other benefit by the requesting agency.

(5) To an authorized appeal grievance examiner, formal complaints manager, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee, only to the extent that the information is relevant and necessary to the case or matter.

(6) To OPM in accordance with the agency's responsibilities for evaluation and oversight of federal personnel management.

(7) To officers and employees of a federal agency for the purpose of conducting an audit, but only to the extent that the record is relevant and necessary to this purpose.

(8) To OMB in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process, as set forth in Circular No. A–19.

(9) To a Member of Congress or to a person on his or her staff acting on the Member's behalf when a written request is made on behalf and at the behest of the individual who is the subject of the record.

(10) To the National Archives and Records Administration (NARA) for records management inspections and such other purposes conducted under the authority of 44 U.S.C. 2904 and 2906.

(11) To appropriate agencies, entities, and persons when: (a) OSHRC suspects or has confirmed that there has been a breach of the system of records; (b) OSHRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OSHRC, the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OSHRC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(12) To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(13) To another federal agency or federal entity, when OSHRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(14) To a bar association or similar federal, state, or local licensing authority for a possible disciplinary action.

(15) To vetted employees of Tyler Federal, LLC, in order to ensure that the e-filing/case management system is properly maintained.

(16) To the public, in accordance with 29 U.S.C. 661(g), for the purpose of inspecting and/or copying the records at OSHRC.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

At the Equinix secure colocation site, the information is stored in a database contained on a separate database server behind the application server serving the data. Paper records are stored in the records room and in file cabinets.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic records contained in the case e-filing/case management system may be retrieved by any of the data items listed under ''Categories of Records in the System,'' including docket number, inspection number, any part of a representative's name or the case name, and user. Paper records may be retrieved manually by docket number or case name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Under Records Disposition Schedule N1–455–90–1, paper case files may be destroyed 20 years after a case closes. Under Records Disposition Schedule N1–455–11–2, electronic records pertaining to those paper case files may be deleted when no longer needed for the conduct of current business.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records contained in the e-filing/case management system are safeguarded as follows. Data going across the internet is encrypted using SSL encryption. Every system is password protected. Tyler Federal, LLC, which stores the data in a government-only cloud within an Oracle Database, operates its own equipment that is protected by physical security measures. Only authorized employees of Tyler Federal, LLC, who have both biometric and PIN access to the datacenter cage utilized by Tyler Federal, LLC, can physically access the sites where data is stored. Only authorized and vetted employees of Tyler Federal, LLC, have access to the servers containing any PII.

The access of parties and their representatives to electronic records in the system is limited to active files pertaining to cases in which the parties are named, or the representatives have entered appearances. The access of OSHRC employees is limited to personnel having a need for access to perform their official functions and is additionally restricted through password identification procedures.

Paper records are maintained in a records room that can only be accessed using a smartcard or a key. Some paper records are also maintained in file cabinets. During duty hours, these records are under surveillance of personnel charged with their custody, and after duty hours, the records are secured behind locked doors. Access to the cabinets is limited to personnel having a need for access to perform their official functions.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should notify: Privacy Officer, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.4 (procedures for requesting notification of and access to personal records).

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their records should notify: Privacy Officer, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457. For an explanation on the specific procedures for contesting the content of a record, refer to 29 CFR 2400.6 (procedures for amending personal records), and 29 CFR 2400.7 (procedures for appealing).

NOTIFICATION PROCEDURES:

Individuals interested in inquiring about their records should notify: Privacy Officer, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036–3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.4 (procedures for requesting notification of and access to personal records).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

July 7, 2016, 81 FR 44335; September 28, 2017, 82 FR 45324; and August 30, 2018, 83 FR 44309.

Nadine N. Mancini,

General Counsel, Senior Agency Official for Privacy.

[FR Doc. 2021–19774 Filed 9–13–21; 8:45 am]

BILLING CODE 7600–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92898; File No. SR–NYSE–2021–49]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its Price List

September 8, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 31, 2021, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate the (1) underutilized monthly rebate payable to Designated Market Makers (''DMM'') with 750 or fewer assigned securities in the previous month, and (2) underutilized Supplemental Liquidity Provider (''SLP'') Tier 5. The Exchange proposes to implement the rule change on September 1, 2021. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to eliminate the (1) underutilized monthly rebate payable to Designated Market Makers (''DMM'') with 750 or fewer assigned securities in the previous month, and (2) underutilized SLP Tier 5.

The Exchange proposes to implement the rule change on September 1, 2021.

Proposed Rule Change

The Exchange proposes to eliminate an underutilized DMM rebate and an underutilized adding tier for SLPs, as follows.

Underutilized DMM Rebate

Currently, the Exchange offers an additional per share credit to DMMs in each eligible assigned More Active Security with a stock price of at least $1.00 on current rebates of $0.0034 or less, *i.e.,* adding credits of $0.0015, $0.0027, $0.0031, and $0.0034 per share. Specifically, DMMs are eligible for an incremental rebate $0.0002 per share in each eligible assigned More

Active Security with a stock price of at least $1.00 where NYSE CADV is equal to or greater than 4.0 billion shares, when adding liquidity with orders, other than Mid-Point Liquidity (''MPL'') Orders, in such securities and the DMM either:

1. Has providing liquidity in all assigned securities as a percentage of NYSE CADV that is an increase of 0.30% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV, or

2. has providing liquidity in all assigned securities as a percentage of NYSE CADV that is an increase of at least 40% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV for DMMs with 750 or fewer assigned securities in the previous month.

The Exchange proposes to eliminate the second alternative way to qualify for the incremental rebate in its entirety and to remove it from the Price List. The second qualification method has been underutilized by member organizations insofar as no DMMs with 750 or fewer assigned securities has qualified for the incremental rebate in the past six months. As such, Exchange does not anticipate any member organization in the near future would qualify for the rebate that is the subject of this proposed rule change.

Underutilized SLP Tier 5

Under current SLP Tier 5, an SLP adding liquidity in securities with a per share price of $1.00 or more with orders, other than MPL Orders, is eligible for a per share credit of $0.0031 (or $0.0012 if a Non-Displayed Reserve Order) if the SLP: (1) Meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B; (2) adds liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization) of an average daily volume (''ADV'') of more than 0.60%% of Tape A consolidated ADV (''CADV'') [4] (for SLPs that are also DMMs and subject to Rule 107B(i)(2)(A), more than 0.60% after a discount of the percentage for the prior quarter of Tape A CADV in DMM assigned securities as of the last business day of the prior month); (3) has Adding ADV,[5] including non-SLP Adding ADV but excluding any liquidity added by a DMM, that is at least 0.80% of Tape A CADV; and (4) executes an ADV, including non-SLP Adding ADV but excluding any liquidity added by a DMM, of at least 250,000 shares in Retail Price Improvements Orders.

The Exchange proposes to eliminate SLP Tier 5 in its entirety and to remove it from the Price List. The tier has been underutilized by member organizations insofar as no SLP has qualified for the tiered display or tiered non-display credit in the past two months. As such, Exchange does not anticipate any member organization in the near future would qualify for the rebate that is the subject of this proposed rule change. As a result of the deletion of SLP Tier 5, the Exchange would renumber the remaining SLP tiers as follows. Current SLP Tier 1A would become new SLP Tier 2. Current SLP Tier 2 would become new SLP Tier 3. Current SLP Tier 3 would become new SLP Tier 4. Finally, current SLP Tier 4 would become new SLP Tier 5.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

The Exchange believes that the proposed elimination of the incremental rebate for DMMs with 750 or fewer assigned securities is reasonable because DMMs have underutilized the alternative qualification for this incentive. No DMM has qualified for the rebate in the past six months. The Exchange does not anticipate any member organization in the near future qualifying for the rebate that is the subject of this proposed rule change. Similarly, the Exchange believes that the proposed elimination of SLP Tier 5 is reasonable. No SLP has qualified for the rebate in the past two months, and the Exchange does not anticipate any member organization in the near future qualifying for SLP Tier 5. The Exchange believes it is reasonable to eliminate rebates and credits when such incentives become underutilized. The Exchange also believes eliminating underutilized incentive programs would also simplify the Price List. The Exchange further believes that removing the alternative qualification for the incremental DMM rebate and SLP Tier 5 from the Price List, as well as renumbering the remaining SLP tiers, would add clarity and transparency to the Price List.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates fees among its market participants because the underutilized alternative qualification for a DMM rebate and SLP tier the Exchange proposes to eliminate would be eliminated in their entirety, and would no longer be available to any member organization in any form. Similarly, the Exchange believes the proposal equitably allocates fees among its market participants because elimination of the underutilized rebate and credits would apply to all similarly-situated member organizations on an equal basis. All such member organizations would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal is not unfairly discriminatory because the proposed elimination of the alternative qualification for the incremental DMM rebate and SLP Tier 5 credits would affect all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange believes that eliminating rebates and credits that are underutilized and ineffective would no longer be available to any DMM or SLP, respectively, on an equal basis. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of underutilized fees would make the Price List more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

[4] The terms ''ADV'' and ''CADV'' are defined in footnote * of the Price List.

[5] Footnote 2 to the Price List defines ''Adding ADV'' as ADV that adds liquidity to the Exchange during the billing month.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) & (5).

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal relates solely to elimination of an underutilized DMM rebate and SLP tiered credits and, as such, would not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the services that the Exchange currently offers, thereby adding clarity to the Price List.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2021–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–49 and should be submitted on or before October 5, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19730 Filed 9–13–21; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92894; File No. SR–CboeBZX–2021–019]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

September 8, 2021.

On March 1, 2021, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the VanEck Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on March 19, 2021.[3] On April 28, 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 June 16, 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 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,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91326 (March 15, 2021), 86 FR 14987 (March 19, 2021). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-cboebzx-2021-019/srcboebzx2021019.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 91695 (April 28, 2021), 86 FR 24066 (May 5, 2021). The Commission designated June 17, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 92196 (June 16, 2021), 86 FR 32985 (June 23, 2021).

[8] 15 U.S.C. 78s(b)(2).

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 proposed rule change was published for comment in the **Federal Register** on March 19, 2021.[9] The 180th day after publication of the proposed rule change is September 15, 2021. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds that it is 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 the proposed rule change and the issues raised in the comment letters that have been submitted in connection therewith. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates November 14, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change (File Number SR–CboeBZX–2021–019).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19726 Filed 9–13–21; 8:45 am]

BILLING CODE 8011–01–P

[9] *See supra* note 3.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92893; File No. SR–ICC–2021–018]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Back-Testing Framework

September 8, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4,[2] notice is hereby given that on August 24, 2021, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICE CDS Clearing: Back-Testing Framework (''Back-Testing Framework'') to include additional description on the lookback period for back-testing and other clarifications. These revisions do not require any changes to the ICC Clearing Rules (the ''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revising the Back-Testing Framework, which describes ICC's back-testing approach and procedures and includes guidelines for remediating poor back-testing results. The proposed amendments include additional description on the lookback period for back-testing and other clarifications. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes a clarification change in Subsection 1.2. The Back-Testing Framework discusses ICC's back-testing analysis, which verifies that the number of actual losses is consistent with the number of projected losses. The proposed clarification to Subsection 1.2 specifies that the ICC Risk Department may consider back-testing analysis based on alternative statistical tests to assess the performance of its models in terms of statistical reliability.

ICC proposes new Subsection 2.1 to include additional description on the lookback period for back-testing. Proposed Subsection 2.1 details the performance of back-testing analysis for Clearing Participant (''CP'') related portfolios. The proposed language discusses the maximum back-testing sample size, or the lookback period, and the benefit of allowing for a greater sample size in terms of assessing model performance. The proposed language also analyzes short lookback periods in combination with high risk quantile estimates. Moreover, ICC proposes to reference an alternative statistical test and describe how the model is considered to pass or fail the test. Proposed Figure 1 serves as an illustration under such alternative statistical test across different sample sizes and risk quantiles. Following such analysis, proposed Subsection 2.1 sets out ICC's rationale for the minimum back-testing window length. Further, proposed Subsection 2.1 references the performance of additional analyses, as described in Section 4 of the Back-Testing Framework, and includes language concerning the reporting of back-testing results. ICC proposes to renumber the following subsections accordingly.

ICC proposes additional clarifications to the Back-Testing Framework. The proposed amendments include a footnote in amended Subsection 2.6 that references a relevant Commodity Futures Trading Commission regulation with respect to ICC's performance of back-testing analysis. ICC further proposes amendments to Section 4, which contains guidelines for remediating poor back-testing results. Currently, poor back-testing results require a peer review of the risk models by the Risk Working Group (''RWG''), which is comprised of risk representatives from ICC's CPs, and remedial actions to improve model performance. The proposed changes describe an additional aspect presented to the RWG and note an assessment that corresponds to the performance of a back-testing analysis without overlapping periods. ICC also proposes to update Section 5, containing a list of references, to include a reference for the alternative statistical test described in proposed Subsection 2.1.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [3] and the regulations thereunder applicable to it, including the applicable

[3] 15 U.S.C. 78q–1.

standards under Rule 17Ad–22.[4] In particular, Section 17A(b)(3)(F) of the Act[5] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The proposed amendments include additional description on the lookback period for back-testing and other clarifications. Proposed Subsection 2.1 sets out ICC's rationale for the minimum back-testing window length. The new subsection is intended to provide additional description and analysis on the lookback period for back-testing and would not change the methodology. The additional revisions further ensure clarity and transparency with respect to ICC's back-testing approach, procedures, and guidelines for remediating poor back-testing results. The proposed footnote references a relevant regulation to ensure ICC's performance of back-testing analysis is in compliance with applicable requirements. As such, ICC believes that the proposed rule change would help assure the soundness of the model by ensuring that back-testing analysis is conducted properly to assess the performance of the model. The proposed rule change is therefore consistent with the prompt and accurate clearing and settlement of the contracts cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[6]

Rule 17Ad–22(e)(2)(i) and (v)[7] requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. ICC's Back-Testing Framework clearly assigns and documents responsibility and accountability for performing back-testing analyses and remediating poor back-testing results. Amended Subsection 4 describes an additional aspect presented to the RWG and notes an assessment that corresponds to the performance of a back-testing analysis without overlapping periods. ICC believes that specifying these additional responsibilities would strengthen the governance arrangements in the Back-Testing Framework and the Back-Testing Framework would continue to ensure that ICC maintains clear and transparent governance procedures and arrangements with respect to the performance, review, and reporting of back-testing results and the remediation of poor back-testing results. As such, in ICC's view, the proposed rule change continues to ensure that ICC maintains policies and procedures that are reasonably designed to provide for clear and transparent governance arrangements and specify clear and direct lines of responsibility, consistent with Rule 17Ad–22(e)(2)(i) and (v).[8]

Rule 17Ad–22(e)(4)(ii)[9] requires each covered clearing agency to 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 additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. As discussed above, proposed Subsection 2.1 would provide additional description and analysis on the lookback period for back-testing and would not change the methodology. The additional revisions enhance the clarity and transparency of the Back-Testing Framework, which would strengthen the documentation and ensure that it remains up-to-date, clear, and transparent. ICC believes that the proposed changes would enhance ICC's ability to manage risks and maintain appropriate financial resources, including by ensuring that back-testing analysis is conducted properly to assess the performance of the model. As such, the proposed amendments would strengthen ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad–22(e)(4)(ii).[10]

Rule 17Ad–22(e)(6)(vi)[11] requires each covered clearing agency to 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, is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by (A) conducting back-tests of its margin model at least once each day using standard predetermined parameters and assumptions; and (B) conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for back-testing on at least a monthly basis, and considering modifications to ensure the back-testing practices are appropriate for determining the adequacy of ICC's margin resources. The Back-Testing Framework continues to require the performance of daily, weekly, monthly, and quarterly portfolio-level back-testing analyses, the performance of monthly parameter reviews and parameter sensitivity analyses, and the remediation of poor-back-testing results. The proposed amendments consist of additional description on the lookback period for back-testing and other clarifications regarding back-testing analysis and the remediation of poor back-testing results. These procedures in the Back-Testing Framework continue to promote the soundness of ICC's model and ensure that ICC's risk management system is effective and appropriate in addressing the risks associated with discharging its responsibilities. The proposed changes are thus consistent with the requirements of Rule 17Ad–22(e)(6)(vi).[12]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to ICC's Back-Testing Framework will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] *Id.*

[7] 17 CFR 240.17Ad–22(e)(2)(i) and (v).

[8] *Id.*

[9] 17 CFR 240.17Ad–22(e)(4)(ii).

[10] *Id.*

[11] 17 CFR 240.17Ad–22(e)(6)(vi).

[12] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2021–018 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–ICC–2021–018. 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 filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.*

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–ICC–2021–018 and should be submitted on or before October 5, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19725 Filed 9–13–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92895; File No. SR–ICC–2021–016]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Exercise Procedures

September 8, 2021.

I. Introduction

On July 8, 2021, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, (the ''Act''),[1] and Rule 19b–4,[2] a proposed rule change to revise the Exercise Procedures in connection with the clearing of credit default index swaptions (''Index Swaptions''). The proposed rule change was published for comment in the **Federal Register** on July 28, 2021.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The Exercise Procedures supplement the provisions of Subchapter 26R of the ICC Clearing Rules (the ''Rules'') with respect to Index Swaptions and provide further detail as to the manner in which Index Swaptions may be exercised by Swaption Buyers, the manner in which ICC will assign such exercises to Swaption Sellers, and certain actions that ICC may take in the event of technical issues.[4] The proposed rule change would amend two sections of the Exercise Procedures: Paragraph 2.6 Exercise System Failure and Paragraph 2.8 Automatic Exercise for Exercise System Failure.[5]

A. Paragraph 2.6 Exercise System Failure

Currently, in the event that ICC's electronic system for the submission and assignment of Swaption Exercise Notices (ICC's ''Exercise System'') fails to be in operation under certain circumstances, the Exercise Procedures provide ICC with the following options: (i) Cancel and reschedule the Exercise Period (*i.e.,* the period on the expiration date of an Index Swaption during which the Swaption Buyer may deliver an exercise notice to ICC to exercise all or part of such Index Swaption); (ii) determine that automatic exercise will apply; and/or (iii) take such other action as ICC determines to be appropriate to permit exercising parties to submit exercise notices and to permit ICC to assign such notices. The proposed rule change would remove ICC's ability to cancel and reschedule the Exercise Period under such circumstances and renumber the paragraph. This would facilitate exercise when there is a system's failure and avoid uncertainty that could arise if an Exercise Period is rescheduled.

B. Paragraph 2.8 Automatic Exercise for Exercise System Failure

Currently, if automatic exercise applies pursuant to Paragraph 2.6, Paragraph 2.8 specifies the parameters under which such automatic exercise will apply. Under Paragraph 2.8, ICC maintains the ability to effect an automatic exercise on the expiration date on each open position (of all exercising parties) in an Index Swaption that is determined by ICC to be ''in the money'' on such date. Currently, whether an Index Swaption is ''in the money'' is based on the average of the end-of-day (''EOD'') price of the underlying CDS contract on the preceding business day and on the expiration date, and where relevant, also based on the average of the EOD price on the preceding business day and

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Exercise Procedures; Exchange Act Release No. 92468 (July 28, 2021); 86 FR 40665 (July 28, 2021) (SR–ICC–2021–016) (''Notice'').

[4] Capitalized terms not otherwise defined herein have the meanings assigned to them in the ICC Rules, as applicable.

[5] The description of the proposed rule change is excerpted substantially from the Notice.

on the expiration date of each single name constituent contract with respect to which an Existing Restructuring has occurred. In practice, this could result in an exercise not occurring during a systems failure if the EOD reference prices are not in the money even if they would have been in the money based on intra-day pricing. Under the proposed rule change, whether an Index Swaption is ''in the money'' would be based on the relevant market-observed prices for the underlying CDS contract determined by ICC using the intraday market data available to it at the time of the Expiration Period, or the EOD price of the underlying CDS contract on the expiration date established at any Intercontinental Exchange, Inc. (''ICE'') clearinghouse, and where relevant, also based on the last available ICE EOD price of each single name constituent contract with respect to which an Existing Restructuring has occurred. This approach provides ICC more flexibility to ensure exercise is based on various reference prices.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act 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.[6] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] and Rule 17Ad–22(e)(17)(i).[8]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.[9]

As noted above, ICC is proposing to make changes to certain exercise procedures related to systems failures. The Commission believes that by removing the option to cancel and reschedule the Exercise Period under Paragraph 2.6, the proposed rule change would help to streamline and simplify the Exercise Procedures in the case of an Exercise System Failure and thereby clarify that cancellations and rescheduling will not occur and that exercises will take place during systems failures. The Commission believes that this in turn will enhance ICC's ability to promptly and accurately clear and settle transactions during systems failures.

Additionally, automatic exercise applies to an Index Swaption that is determined by ICC to be in the money. As noted above, under the proposed rule change, whether an Index Swaption is ''in the money'' will be based on the relevant market-observed prices for the underlying CDS contract determined by ICC using the intraday market data available to it at the time or the EOD price of the underlying CDS contract on the expiration date established at any ICE clearinghouse, and where relevant, also based on the last available ICE EOD price of each single name constituent contract with respect to which an Existing Restructuring has occurred. This will allow ICC additional flexibility for determining whether an Index Swaption is in the money and facilitate exercise based on various reference prices, which the Commission believes provides the ability to reflect accurate prices thereby enhancing ICC's ability to promptly and accurately settle and clear transactions during systems failures.

For the reasons stated above, the Commission finds that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act.[10]

B. Consistency With Rule 17Ad–22(e)(17)(i)

Rule 17Ad–22(e)(17) requires, in relevant part, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, manage its operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.[11]

The Commission believes that by revising its Index Swaption Exercise Procedures, as noted above, to remove the ability to cancel or reschedule exercises and to add flexibility to use various reference prices for determining if an Index Swaption is in the money during systems failures, the proposal allows ICC to manage the risks posed by a systems failure by (i) increasing certainty around the timing of the Exercise Period and (ii) increasing the likelihood that an Index Swaption would be categorized as being in-the-money, and therefore automatically exercised, as expected. The Commission believes that this in turn supports ICC's ability to mitigate the consequences of a systems failure and promote systems that have a high degree of resiliency and operational reliability.

For these reasons, the Commission believes the proposed rule change is consistent with Rule 17Ad–22(e)(17)(i).[12]

IV. 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(b)(3)(F) of the Act[13] and Rules 17Ad–22(e)(17)(i).[14]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[15] that the proposed rule change (SR–ICC–2021–016), be, and hereby is, approved.[16]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19727 Filed 9–13–21; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(e)(17)(i).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22(e)(17)(i).

[12] *Id.*

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] 17 CFR 240.17Ad–22(e)(17)(i).

[15] 15 U.S.C. 78s(b)(2).

[16] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92897; File No. SR–FINRA–2021–022]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation Date of Certain Amendments to FINRA Rule 4210 Approved Pursuant to SR–FINRA–2015–036

September 8, 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 August 26, 2021, the Financial Industry Regulatory Authority, Inc. (''FINRA'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 .

filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend, to January 26, 2022, the implementation date of the amendments to FINRA Rule 4210 (Margin Requirements) pursuant to SR–FINRA–2015–036, other than the amendments pursuant to SR–FINRA–2015–036 that were implemented on December 15, 2016. The proposed rule change would not make any changes to the text of FINRA rules.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 6, 2015, FINRA filed with the Commission proposed rule change SR–FINRA–2015–036, which proposed to amend FINRA Rule 4210 to establish margin requirements for (1) To Be Announced (''TBA'') transactions, inclusive of adjustable rate mortgage (''ARM'') transactions; (2) Specified Pool Transactions; and (3) transactions in Collateralized Mortgage Obligations (''CMOs''), issued in conformity with a program of an agency or Government-Sponsored Enterprise (''GSE''), with forward settlement dates, as defined more fully in the filing (collectively, ''Covered Agency Transactions''). The Commission approved SR–FINRA–2015–036 on June 15, 2016 (the ''Approval Date'').[4]

Pursuant to Partial Amendment No. 3 to SR–FINRA–2015–036, FINRA announced in *Regulatory Notice* 16–31 that the rule change would become effective on December 15, 2017, 18 months from the Approval Date, except that the risk limit determination requirements as set forth in paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H) of Rule 4210 and in new Supplementary Material .05, each as respectively amended or established by SR–FINRA–2015–036 (collectively, the ''risk limit determination requirements''), would become effective on December 15, 2016, six months from the Approval Date.[5]

Industry participants sought clarification regarding the implementation of the requirements pursuant to SR–FINRA–2015–036. Industry participants also requested additional time to make system changes necessary to comply with the requirements, including time to test the system changes, and requested additional time to update or amend margining agreements and related documentation. In response, FINRA made available a set of Frequently Asked Questions & Guidance[6] and, pursuant to SR–FINRA–2017–029,[7] extended the implementation date of the requirements of SR–FINRA–2015–036 to June 25, 2018, except for the risk limit determination requirements, which, as announced in *Regulatory Notice* 16–31, became effective on December 15, 2016.

Industry participants requested that FINRA reconsider the potential impact of certain requirements pursuant to SR–FINRA–2015–036 on smaller and mid-sized firms. Industry participants also requested that FINRA extend the implementation date pending such reconsideration to reduce potential uncertainty in the Covered Agency Transaction market. In response to these concerns, FINRA further extended the implementation date of the requirements of SR–FINRA–2015–036, other than the risk limit determination requirements, to October 26, 2021 (the ''October 26, 2021 implementation date'').[8] FINRA noted that, as FINRA stated in Partial Amendment No. 3 to SR–FINRA–2015–036, FINRA would monitor the impact of the requirements pursuant to that rulemaking and, if the requirements prove overly onerous or otherwise are shown to negatively impact the market, FINRA would consider revisiting such requirements as may be necessary to mitigate the rule's impact.[9]

Informed by extensive dialogue, both with industry participants and other regulators, including the staff of the SEC and the Federal Reserve System, FINRA has proposed amendments to the requirements of SR–FINRA–2015–036 (the ''Proposed Amendments'').[10] This rulemaking is ongoing. If the Commission approves the Proposed Amendments, FINRA believes it is appropriate, in the interest of regulatory clarity, to adjust the implementation of the requirements pursuant to SR–FINRA–2015–036 so as to permit time for the Commission to take action on the Proposed Amendments.[11] As such, FINRA is proposing to extend the October 26, 2021 implementation date

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 78081 (June 15, 2016), 81 FR 40364 (June 21, 2016) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval to a Proposed Rule Change to Amend FINRA Rule 4210 (Margin Requirements) to Establish Margin Requirements for the TBA Market, as Modified by Amendment Nos. 1, 2, and 3; File No. SR–FINRA–2015–036).

[5] *See* Partial Amendment No. 3 to SR–FINRA–2015–036 and *Regulatory Notice* 16–31 (August 2016), both available at: *www.finra.org.*

[6] Available at: *www.finra.org/rules-guidance/guidance/faqs.* Further, staff of the SEC's Division of Trading and Markets made available a set of Frequently Asked Questions regarding Exchange Act Rule 15c3–1 and Rule 15c3–3 in connection with Covered Agency Transactions under FINRA Rule 4210, also available at: *www.finra.org/rules-guidance/guidance/faqs.*

[7] *See* Securities Exchange Act Release No. 81722 (September 26, 2017), 82 FR 45915 (October 2, 2017) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Delay the Implementation Date of Certain Amendments to FINRA Rule 4210 Approved Pursuant to SR–FINRA–2015–036; File No. SR–FINRA–2017–029); *see also Regulatory Notice* 17–28 (September 2017).

[8] *See* Securities Exchange Act Release No. 90852 (January 5, 2021), 86 FR 2021 (January 11, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Implementation Date of Certain Amendments to FINRA Rule 4210 Approved Pursuant to SR–FINRA–2015–036; File No. SR–FINRA–2020–046).

[9] *See* Partial Amendment No. 3 to SR–FINRA–2015–036, available at: *www.finra.org.*

[10] *See* Securities Exchange Act Release No. 91937 (May 19, 2021), 86 FR 28161 (May 25, 2021) (Notice of Filing of a Proposed Rule Change to Amend the Requirements for Covered Agency Transactions under FINRA Rule 4210 (Margin Requirements) as Approved Pursuant to SR–FINRA–2015–036; File No. SR–FINRA–2021–010). *See also* Partial Amendment No. 1 to SR–FINRA–2021–010, available at *www.finra.org.*

[11] *See* Securities Exchange Act Release No. 92713 (August 20, 2021) (Notice of Filing of Amendment No. 1 and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Requirements for Covered Agency Transactions under FINRA Rule 4210 (Margin Requirements) as Approved Pursuant to SR–FINRA–2015–036; File No. SR–FINRA–2021–010).

to January 26, 2022, which date FINRA may propose to further adjust as appropriate in a separate rule filing pending any Commission action on the Proposed Amendments. FINRA notes that the risk limit determination requirements pursuant to SR–FINRA–2015–036 became effective on December 15, 2016 and, as such, the implementation of such requirements is not affected by the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing. The operative date will be the date of filing of the proposed rule change.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will help to reduce potential uncertainty in the Covered Agency Transaction market because, pending any Commission action on the Proposed Amendments, the proposed rule change will permit adjustment and alignment, as appropriate, of the implementation of the requirements pursuant to SR–FINRA–2015–036 with the effective date of the Proposed Amendments. FINRA believes that this will thereby protect investors and the public interest by helping to promote stability in the Covered Agency Transaction market.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that extending the October 26, 2021 implementation date to January 26, 2022, pending any Commission action on the Proposed Amendments, so as to permit adjustment and alignment of the implementation of the requirements pursuant to SR–FINRA–2015–036, as appropriate, with the effective date of the Proposed Amendments, will help to provide clarity to industry participants and to reduce any potential uncertainty in the Covered Agency Transaction market, thereby benefiting all parties.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. FINRA has stated that the purpose of the proposed rule change is to help to avoid unnecessary disruption in the Covered Agency Transaction market pending any Commission action on the amendments that FINRA has proposed to the Covered Agency Transaction margin requirements. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal to extend the implementation date of the requirements of Rule 4210 does not raise any new or novel issues and will reduce any potential uncertainty in the Covered Agency Transaction market. Therefore, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[17]

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–FINRA–2021–022 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2021–022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10

[12] 15 U.S.C. 78*o*–3(b)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4 (f)(6).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[17] For purposes of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2021–022 and should be submitted on or before October 5, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19729 Filed 9–13–21; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92896; File No. SR–MEMX–2021–11]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule

September 8, 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 31, 2021, MEMX LLC (''MEMX'' or the ''Exchange'') 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

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members[3] (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on September 1, 2021. The text of the proposed rule change is provided in Exhibit 5.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The purpose of the proposed rule change is to amend the Fee Schedule to: (i) Include an additional Liquidity Provision Tier applicable to the rebates for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Volume'') and modify the required criteria under the existing Liquidity Provision Tier; (ii) introduce a tiered pricing structure for the Displayed Liquidity Incentive (''DLI'') by including an additional DLI Tier and reducing the rebate provided under the existing DLI; (iii) increase the fee under the Liquidity Removal Tier for executions of orders in securities priced at or above $1.00 per share that remove liquidity from the Exchange (such orders, ''Removed Volume''); and (iv) reduce the standard rebate for executions of Added Displayed Volume.

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 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading.[4] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 3% of the overall market share.[5] The Exchange in particular operates a ''Maker-Taker'' model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower 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.

Liquidity Provision Tiers

Currently, the Exchange provides a standard rebate of $0.0031 per share for executions of Added Displayed Volume, which the Exchange is proposing to reduce to $0.0028 per share, as further described below. The Exchange also currently offers, in addition to other incentives, a Liquidity Provision Tier in which a Member may receive an enhanced rebate of $0.00335 per share for executions of Added Displayed Volume by achieving an ADAV[6] of at least 15,000,000 shares. Now, the Exchange proposes to rename the existing Liquidity Provision Tier to Liquidity Provision Tier 1, modify the required criteria under Liquidity Provision Tier 1, and add a new Liquidity Provision Tier 2. Specifically, the Exchange proposes to modify the required criteria under Liquidity Provision Tier 1 such that a Member would now qualify for Liquidity Provision Tier 1 by achieving an ADAV of at least 0.20% of the TCV.[7] Members that qualify for Liquidity Provision Tier 1 would continue to receive an enhanced rebate of $0.00335 per share

[4] Market share percentage calculated as of August 30, 2021. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[5] *Id.*

[6] As set forth on the Fee Schedule, ''ADAV'' means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis.

[7] As set forth on the Fee Schedule, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

for executions of Added Displayed Volume and a rebate of 0.05% of the total dollar value of the transaction for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange.[8] The Exchange believes that basing qualification for Liquidity Provision Tier 1 (and proposed new Liquidity Provision Tier 2, as described below) on an ADAV threshold that is a percentage of the TCV, rather than an ADAV threshold that is a specified number of shares, as it is today, is appropriate so that the threshold is variable based on overall volumes in the equities industry, which fluctuate from month to month. The Exchange further believes that several Members that currently qualify for Liquidity Provision Tier 1 would continue to qualify under the proposed new criteria, which the Exchange believes does not represent a significant departure from the criteria currently required under such tier based on overall equities volumes in recent months and that others may still qualify for an enhanced—albeit slightly lower—rebate under the proposed new Liquidity Provision Tier 2, as described below.

The Exchange is also proposing to add a new Liquidity Provision Tier 2 in which it will provide an enhanced rebate of $0.0031 per share for executions of Added Displayed Volume for Members that qualify for Liquidity Provision Tier 2 by achieving an ADAV of at least 0.10% of the TCV.[9] The Exchange proposes to provide Members that qualify for Liquidity Provision Tier 2 a rebate of 0.05% of the total dollar volume of the transaction for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange, which is the same rebate that is applicable to such executions for all Members (*i.e.,* including those that do not qualify for any Liquidity Provision Tier). The proposed Liquidity Provision Tier 2 is designed to encourage Members to maintain or increase their orders that add liquidity on the Exchange in order to qualify for an enhanced rebate for executions of Added Displayed Volume, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. Further, the proposed new Liquidity Provision Tier 2 would provide Members that would not qualify for Liquidity Provision Tier 1 with an opportunity to still qualify for an enhanced—albeit slightly lower—rebate for executions of Added Displayed Volume in a manner that, coupled with the higher enhanced rebate provided under Liquidity Provision Tier 1, provides increasingly higher benefits for satisfying increasingly more stringent criteria.

The Exchange notes that the rebates provided for executions of Added Displayed Volume under the Liquidity Provision Tiers, including the current rebate under Liquidity Provision Tier 1 (*i.e.,* $0.00335 per share) and the proposed rebate under Liquidity Provision Tier 2 (*i.e.,* $0.0031 per share), are comparable to, and competitive with, the rebates for executions of liquidity-adding displayed orders provided by at least one other exchange under similar volume-based tiers.[10]

The Exchange also proposes to amend the Fee Schedule to rename the ''Liquidity Provision Tier'' heading to ''Liquidity Provision Tiers'' to reflect the addition of a second tier and to reorganize the information related to such tiers, including the applicable rebates and required criteria, into a table format. The Exchange believes that utilizing a table format for its tiered pricing will make the Fee Schedule easier for Members to navigate and understand.

DLI Tiers

The Exchange is also proposing to introduce a tiered pricing structure for the DLI by including an additional DLI Tier and reducing the rebate provided under the existing DLI. As noted in the Exchange's proposal to adopt the DLI, the DLI is intended to encourage Members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day (*i.e.,* through the applicable quoting requirement[11]) in a large number of securities, generally, and in the DLI Target Securities,[12] in particular (*i.e.,* through the applicable securities requirements[13]), thereby benefitting the Exchange and investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO in a broad base of securities, including the DLI Target Securities, and committing capital to support the execution of orders.[14]

Currently, the Exchange provides an enhanced rebate of $0.0036 per share for executions of Added Displayed Volume for Members that qualify for the DLI by achieving an NBBO Time of at least 25% in an average of at least 250 securities, at least 75 of which must be DLI Target Securities, per trading day during the month.[15] Now, the Exchange proposes to rename the existing DLI to DLI Tier 2, reduce the rebate provided under DLI Tier 2, and add a new DLI Tier 1. Specifically, the Exchange proposes to reduce the rebate provided under DLI Tier 2 for executions of Added Displayed Volume from $0.0036 per share to $0.0035 per share.[16] The Exchange does not propose to change the required criteria for a Member to qualify for DLI Tier 2 or the rebate provided under DLI Tier 2 for executions of orders in securities priced

[8] The pricing for Liquidity Provision Tier 1 is referred to by the Exchange on the Fee Schedule under the new description ''Added displayed volume, Liquidity Provision Tier 1'' with a Fee Code of ''B1'', ''D1'' or ''J1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members. The Exchange notes that because the determination of whether a Member qualifies for a certain pricing tier for a particular month will not be made until after the month-end, the Exchange will provide the Fee Codes otherwise applicable to such transactions on the execution reports provided to Members during the month and will only designate the Fee Codes applicable to the achieved pricing tier on the monthly invoices, which are provided after such determination has been made, as the Exchange does for its tier-based pricing today.

[9] The pricing for Liquidity Provision Tier 2 is referred to by the Exchange on the Fee Schedule under the new description ''Added displayed volume, Liquidity Provision Tier 2'' with a Fee Code of ''B2'', ''D2'' or ''J2'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[10] *See* the Cboe BZX Exchange, Inc. (''Cboe BZX'') equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*), which reflects rebates provided under ''Add Volume Tiers''—tiers based on a member achieving certain ADAV thresholds—ranging from $0.0025 to $0.0031 per share for adding displayed liquidity to the Cboe BZX exchange.

[11] As set forth on the Fee Schedule, ''quoting requirement'' means the requirement that a Member's NBBO Time be at least 25%. As set forth on the Fee Schedule, ''NBBO Time'' means the aggregate of the percentage of time during regular trading hours during which one of a Member's market participant identifiers (''MPIDs'') has a displayed order of at least one round lot at the national best bid or the national best offer.

[12] As set forth on the Fee Schedule, ''DLI Target Securities'' means a list of securities designated as such, the universe of which will be determined by the Exchange and published on the Exchange's website.

[13] As set forth on the Fee Schedule, ''securities requirement'' means the requirement that a Member meets the quoting requirement in the applicable number of securities per trading day.

[14] *See* Securities Exchange Act Release No. 92150 (June 10, 2021), 86 FR 32090 (June 16, 2021) (SR–MEMX–2021–07).

[15] Under the existing DLI (which the Exchange is proposing to rename to DLI Tier 2), each of the 250 securities requirement and the 75 DLI Target Securities requirement is a ''securities requirement'' as that term is used on the Fee Schedule for purposes of determining a Member's qualification.

[16] The pricing for DLI Tier 2 is referred to by the Exchange on the Fee Schedule under the new description ''Added displayed volume, DLI Tier 2'' with a Fee Code of ''Bq2'', ''Dq2'' or ''Jq2'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

below $1.00 per share that add displayed liquidity to the Exchange (*i.e.,* 0.05% of the total dollar value of the transaction).

Additionally, the Exchange is proposing to add a new DLI Tier 1 in which it will provide an enhanced rebate of $0.0036 per share for executions of Added Displayed Volume for Members that qualify for DLI Tier 1 by achieving an NBBO Time of at least 25% in an average of at least 1,000 securities, at least 125 of which must be DLI Target Securities, per trading day during the month.[17] The Exchange proposes to provide Members that qualify for DLI Tier 1 a rebate of 0.05% of the total dollar volume of the transaction for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange, which is the same rebate that is applicable to such executions for all Members (*i.e.,* including those that do not qualify for any DLI Tier). The Exchange notes that the same definitions and notes currently set forth under the ''Displayed Liquidity Incentive'' heading on the Fee Schedule and the calculation methodologies that are applicable to the existing DLI (proposed to be renamed to DLI Tier 2) would similarly apply to the proposed new DLI Tier 1.[18]

As is the case through the applicable quoting requirement and securities requirements under the existing DLI Tier 2, the proposed new DLI Tier 1 is designed to enhance market quality both in a broad manner with respect to all securities traded on the Exchange, through the 1,000 securities requirement, and in a targeted manner with respect to certain designated securities in which the Exchange specifically seeks to inject additional quoting competition (*i.e.,* the DLI Target Securities), through the 125 DLI Target Securities requirement. The purpose of reducing the rebate provided under the existing DLI Tier 2 (*i.e.,* from $0.0036 per share to $0.0035 per share) and providing a higher rebate under the proposed new DLI Tier 1—which is the same as the current rebate provided under the existing DLI Tier 2 (*i.e.,* $0.0036 per share)—is to incentivize Members that consistently quote on the Exchange to strive to do so in a larger number of securities, generally, and in a larger number of DLI Target Securities, in particular, in a manner that provides increasingly higher benefits for satisfying increasingly more stringent criteria. Thus, the DLI Tiers are not dissimilar from volume-based incentives that have been widely adopted by exchanges, including the Exchange, in that the DLI Tiers are designed to encourage Members that quote on the Exchange to maintain or increase their quoting activity on the Exchange by providing an incremental incentive for Members to strive for higher tier levels, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. Through the enhanced rebates provided to Members that qualify for the DLI Tiers, the Exchange hopes to provide improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO for a large number of securities, generally, including the DLI Target Securities, in particular.

The Exchange also proposes to amend the Fee Schedule to rename the ''Displayed Liquidity Incentive'' heading to ''Displayed Liquidity Incentive Tiers'' to reflect the introduction of a tiered pricing structure for the DLI and the addition of a second tier and to reorganize the information related to such tiers, including the applicable rebates and required criteria, into a table format. As noted above, the Exchange believes that utilizing a table format for its tiered pricing will make the Fee Schedule easier for Members to navigate and understand.

Increased Fee Under Liquidity Removal Tier

Currently, the Exchange charges a standard fee of $0.0028 per share for executions of Removed Volume. The Exchange also currently offers a Liquidity Removal Tier in which qualifying Members are charged a lower fee of $0.00265 per share for executions of Removed Volume. Now, the Exchange proposes to rename the existing Liquidity Removal Tier to Liquidity Removal Tier 1 and to increase the fee charged under Liquidity Removal Tier 1 for executions of Removed Volume to $0.0027 per share.[19] The Exchange does not propose to change the required criteria for a Member to qualify for Liquidity Removal Tier 1 or the fee charged under Liquidity Removal Tier 1 for executions of orders in securities priced below $1.00 per share that remove liquidity from the Exchange (*i.e.,* 0.05% of the total dollar value of the transaction).

The purpose of increasing the fee charged for executions of Removed Volume under Liquidity Removal Tier 1 is for business and competitive reasons, as the Exchange believes that increasing such fee as proposed would generate additional revenue to offset some of the costs associated with the Exchange's current pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the modest increase proposed herein, the proposed fee charged under Liquidity Removal Tier 1 for executions of Removed Volume (*i.e.,* $0.0027 per share) remains lower than, and competitive with, the fee charged for executions of liquidity-removing orders charged by at least one other exchange under similar volume-based tiers.[20]

The Exchange also proposes to amend the Fee Schedule to reorganize the information related to Liquidity Removal Tier 1, including the applicable rebate and required criteria, into a table format. As noted above, the Exchange believes that utilizing a table format for its tiered pricing will make the Fee Schedule easier for Members to navigate and understand.

Reduced Standard Rebate for Added Displayed Volume

Lastly, the Exchange proposes to reduce the standard rebate for executions of Added Displayed Volume. Currently, the Exchange provides a standard rebate of $0.0031 per share for executions of Added Displayed Volume. The Exchange now proposes to reduce the standard rebate for executions of Added Displayed Volume to $0.0028 per share.[21] The Exchange notes that

[17] Under the proposed new DLI Tier 1, each of the 1,000 securities requirement and the 125 DLI Target Securities requirement is a ''securities requirement'' as that term is used on the Fee Schedule for purposes of determining a Member's qualification. The pricing for DLI Tier 1 is referred to by the Exchange on the Fee Schedule under the new description ''Added displayed volume, DLI Tier 1'' with a Fee Code of ''Bq1'', ''Bq1'' or ''Jq1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[18] *See supra* note 14.

[19] The pricing for Liquidity Removal Tier 1 is referred to by the Exchange on the Fee Schedule under the new description ''Removed volume from MEMX Book, Liquidity Removal Tier 1'' with a Fee Code of ''R1'' to be provided by the Exchange on the monthly invoices provided to Members.

[20] *See* the Cboe EDGX Exchange, Inc. (''Cboe EDGX'') equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/*), which reflects a fee charged under ''Remove Volume Tiers''—tiers based on a member achieving certain step-up ADAV and ADV volume thresholds—of $0.00275 per share for removing volume from the Cboe EDGX exchange.

[21] The standard pricing for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description

executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange will continue to receive the standard rebate applicable to such executions (i.e., 0.05% of the total dollar value of the transaction).

The purpose of reducing the standard rebate for executions of Added Displayed Volume is also for business and competitive reasons, as the Exchange believes the reduction of such rebate would decrease the Exchange's expenditures with respect to transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange notes that despite the modest reduction proposed herein, the proposed standard rebate for executions of Added Displayed Volume (*i.e.,* $0.0028 per share) remains higher than, and competitive with, the standard rebates provided by other exchanges for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity.[22]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[23] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[24] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and 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, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.'' [25]

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 new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange and to enhance market quality to the benefit of all Members and market participants.

The Exchange believes the proposed Liquidity Provision Tier 2 is reasonable because it would provide Members with an additional incentive to achieve a certain volume threshold on the Exchange. The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges, including the Exchange, 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; (ii) associated higher levels of market activity, such as high levels of liquidity provision and/or growth patterns; and (iii) the introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes the proposed Liquidity Provision Tier 2 is equitable and not unfairly discriminatory for these same reasons, as it is available to all Members and is designed to encourage Members to maintain or increase their orders that add liquidity on the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. Moreover, the Exchange believes the proposed Liquidity Provision Tier 2 is a reasonable means to incentivize such increased activity, as it provides Members with an additional opportunity to qualify for an enhanced rebate for executions of Added Displayed Volume with less stringent criteria than Liquidity Provision Tier 1.

Additionally, the Exchange believes the proposed enhanced rebate for executions of Added Displayed Volume under Liquidity Provision Tier 2 (*i.e.,* $0.0031 per share) is reasonable, in that it represents only a modest increase from the proposed standard rebate for such executions (*i.e.,* $0.0028 per share) and is the same as the current standard rebate for such executions. Thus, the Exchange believes that it is reasonable, consistent with an equitable allocation of fees, and not unfairly discriminatory to provide an enhanced rebate for executions of Added Displayed Volume to Members that qualify for the Liquidity Provision Tier 2 in comparison with the standard rebate for such executions in recognition of the benefits that such Members provide to the Exchange and market participants, as described above, particularly as the magnitude of the enhanced rebate is not unreasonably high and is, instead, reasonably related to the enhanced market quality it is designed to achieve.

The Exchange believes the proposed change to modify the required criteria for Liquidity Provision Tier 1 from an ADAV of at least 15,000,000 shares to an ADAV of at least 0.20% of the TCV is reasonable because, as noted above, the Exchange believes that basing qualification for the Liquidity Provision Tiers on an ADAV threshold that is a percentage of the TCV, rather than an ADAV threshold that is a specified number of shares, is appropriate so that the threshold is variable based on overall volumes in the equities industry, which fluctuate from month to month. The Exchange further believes the proposed new criteria is equitable and non-discriminatory because all Members will continue to be eligible to qualify for Liquidity Provision Tier 1 and have the opportunity to receive the corresponding enhanced rebate if such criteria is achieved. Additionally, as noted above, the Exchange believes that several Members that currently qualify for Liquidity Provision Tier 1 would continue to qualify under the proposed new criteria, which the Exchange believes does not represent a significant departure from the criteria currently required under such tier based on overall equities volumes in recent months. The Exchange notes that should

''Added displayed volume'' with a Fee Code of ''B'', ''D'' or ''J'', as applicable, on the execution reports provided to Members.

[22] *See, e.g.,* the Nasdaq PSX equities trading fee schedule on its public website (available at *http://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing*), which reflects a standard rebate of $0.0020 per share to add displayed liquidity in securities priced at or above $1.00 per share; the NYSE Arca equities trading fee schedule on its public website (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*)), which reflects a standard rebate of $0.0020 per share to add displayed liquidity in securities priced at or above $1.00 per share.

[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(4) and (5).

[25] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

a Member not meet the proposed new criteria for Liquidity Provision Tier 1, such Member would merely not receive that corresponding enhanced rebate, and such Member would still have an opportunity to qualify for an enhanced—albeit slightly lower—rebate for executions of Added Displayed Volume under the proposed Liquidity Provision Tier 2, which has less stringent criteria, as described above.

The Exchange further believes that the proposed new criteria for Liquidity Provision Tier 1 and the proposed criteria and rebate for Liquidity Provision Tier 2 are reasonable, in that the proposed new criteria for Liquidity Provision Tier 1 is incrementally more difficult to achieve than that for Liquidity Provision Tier 2, and thus, Liquidity Provision Tier 1 appropriately offers a higher rebate commensurate with the corresponding higher volume threshold. Therefore, the Exchange believes the Liquidity Provision Tiers, as proposed, are consistent with an equitable allocation of fees and rebates, as the more stringent criteria correlates with the corresponding tier's higher rebate. The Exchange further believes that the rebates provided under the Liquidity Provision Tiers, as proposed, including the current rebate for Liquidity Provision Tier 1 (*i.e.,* $0.00335 per share) and the proposed rebate for Liquidity Provision Tier 2 (*i.e.,* $0.0031 per share), are reasonable because, as noted above, such rebates are comparable to, and competitive with, the rebates for executions of liquidity-adding displayed orders provided by at least one other exchange under similar volume-based tiers.[26]

The Exchange also believes that it is reasonable, consistent with an equitable allocation of fees and rebates, and not unfairly discriminatory to provide Members that qualify for the proposed Liquidity Provision Tier 2 a rebate of 0.05% of the total dollar value of the transaction for executions of orders in securities priced below $1.00 per share that add liquidity to the Exchange, as this is the same rebate that would be applicable to such executions for all Members (*i.e.,* including those that do not qualify for any Liquidity Provision Tier), which is also the case under the Exchange's current pricing.

As noted above, the DLI Tiers are not dissimilar from volume-based incentives that have been widely adopted by exchanges, including the Exchange's Liquidity Provision Tiers described above, in that the DLI Tiers are designed to encourage Members that quote on the Exchange to maintain or increase their quoting activity on the Exchange by providing an incremental incentive for Members to strive for higher tier levels by achieving the applicable quoting requirement in a larger number of securities, generally, and in a larger number of DLI Target Securities, in particular, in a manner that provides increasingly higher benefits for satisfying increasingly more stringent criteria. Thus, the Exchange believes the proposed new DLI Tier 1 is equitable and not unfairly discriminatory for the same reasons described above with respect to the Liquidity Provision Tiers, as it is available to all Members and is designed to encourage Members to promote price discovery and market quality both in a broad manner with respect to all securities traded on the Exchange, through the 1,000 securities requirement, and in a targeted manner with respect to certain designated securities in which the Exchange specifically seeks to inject additional quoting competition (*i.e.,* the DLI Target Securities), through the 125 DLI Target Securities requirement, thereby benefitting the Exchange and investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO in a broad base of securities, including the DLI Target Securities, and committing capital to support the execution of orders. Moreover, the Exchange believes the addition of proposed DLI Tier 1 is a reasonable means to incentivize such increased activity, as it provides Members with an additional opportunity to qualify for an enhanced rebate for executions of Added Displayed Volume.

The Exchange further believes that the proposed reduced rebate for DLI Tier 2 and the proposed criteria and rebate for DLI Tier 1 are reasonable, in that the proposed criteria for DLI Tier 1 is incrementally more difficult than that for DLI Tier 2, and thus, appropriately offers a higher rebate commensurate with the more stringent securities requirements. Therefore, the Exchange believes the DLI Tiers, as proposed, are consistent with an equitable allocation of fees and rebates, as the more stringent criteria correlates with the corresponding tier's higher rebate.

Additionally, the Exchange believes that it is reasonable, consistent with an equitable allocation of fees, and not unfairly discriminatory to provide an enhanced rebate for executions of Added Displayed Volume to Members that qualify for the DLI Tier 1 in comparison with the standard rebate for such executions in recognition of the benefits that such Members provide to the Exchange and market participants, as described above, particularly as the magnitude of the enhanced rebate is not unreasonably high and is, instead, reasonably related to the enhanced market quality it is designed to achieve. The Exchange notes that the proposed enhanced rebate provided under the DLI Tier 1 is the same as the current rebate provided under the existing DLI Tier 2 (*i.e.,* $0.0036 per share), and thus, is reasonable. The Exchange further notes that Members that do not meet the proposed DLI Tier 1's requirements may still qualify for an enhanced rebate that is higher than the standard rebate for executions of Added Displayed Volume through the existing DLI Tier 2, which has less stringent securities requirements, or the Liquidity Provision Tiers, which do not require a Member to consistently quote at the NBBO across a broad range of securities.

The Exchange believes that it is reasonable, consistent with an equitable allocation of fees and rebates, and not unfairly discriminatory to provide Members that qualify for the proposed new DLI Tier 1 a rebate of 0.05% of the total dollar value of the transaction for executions of orders in securities priced below $1.00 per share that add liquidity to the Exchange, as this is the same rebate that would be applicable to such executions for all Members (*i.e.,* including those that do not qualify for any DLI Tier), which is also the case under the Exchange's current pricing.

The Exchange believes that the proposed changes to increase the fee charged under Liquidity Removal Tier 1 for executions of Removed Volume and to reduce the standard rebate for executions of Added Displayed Volume are reasonable, equitable, and consistent with the Act because such changes are designed to generate additional revenue and decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the Exchange's current pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity, as described above.

The Exchange further believes that the proposed increased fee charged under Liquidity Removal Tier 1 for executions of Removed Volume (*i.e.,* $0.0027 per share) is reasonable and appropriate because it continues to provide an opportunity for Members to qualify for a fee that is lower than the standard fee for executions of Removed Volume, it represents only a modest increase from

[26] *See supra* note 10.

the current fee charged under Liquidity Removal Tier 1 for executions of Removed Volume (*i.e.,* $0.00265 per share) and, as noted above, remains lower than, and competitive with, the fee charged for executions of liquidity-removing orders charged by at least one other exchange under similar volume-based tiers.[27] Additionally, the Exchange believes that such proposed fee is equitably allocated and not unfairly discriminatory because it will continue to apply equally to all Members, in that all Members will continue to have the opportunity to achieve the tier's required criteria, which the Exchange is not proposing to modify with this proposal, and in turn, qualify for a lower fee for executions of Removed Volume.

Similarly, the Exchange believes that the proposed reduced standard rebate for executions of Added Displayed Volume (*i.e.,* $0.0028 per share) is reasonable and appropriate because it represents only a modest decrease from the current standard rebate for executions of Added Displayed Volume (*i.e.,* $0.0031 per share) and, as noted above, remains higher than, and competitive with, the standard rebates provided by other exchanges for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity.[28] The Exchange further believes that the proposed increased fee charged under Liquidity Removal Tier 1 for executions of Removed Volume and the proposed reduced standard rebate for executions of Added Displayed Volume are equitably allocated and not unfairly discriminatory because they both will apply equally to all Members.

Lastly, the Exchange believes that the proposed changes to rename the Exchange's pricing tiers and section headings on the Fee Schedule to reflect tier numbering and the addition of new tiers, and to reorganize the information related to the Exchange's tiered pricing, including the applicable rebates and required criteria, into a table format are reasonable, equitable, and non-discriminatory because such changes are designed to ensure the Fee Schedule clearly reflects the Exchange's pricing structure and to make the Fee Schedule easier for Members to navigate and understand.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act[29] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to enhance market quality on the Exchange in a large number of securities, generally, and in the DLI Target Securities, in particular, and to encourage Members to maintain or increase their order flow on the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal 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.''[30]

Intramarket Competition

The Exchange believes that the proposal would incentivize Members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, including the DLI Target Securities, to and maintain or increase their order flow on the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The opportunity to qualify for the Liquidity Provision Tiers and the DLI Tiers, and thus receive the corresponding enhanced rebate for executions of Added Displayed Volume, would be available to all Members that meet the associated requirements in any month. Further, as noted above, the Exchange believes that the proposed new criteria for Liquidity Provision Tier 1, as well as the proposed new Liquidity Provision Tier 2 which has less stringent criteria, are attainable for several Members and that the respective enhanced rebates provided under such tiers are reasonably related to the enhanced market quality that such tiers are designed to promote. Similarly, the Exchange believes that the proposed DLI Tier 1's requirements, as well as the existing DLI Tier 2's requirements, are attainable for several Members that actively quote on exchanges and that the respective enhanced rebates provided under such tiers are reasonably related to the enhanced market quality that such tiers are designed to promote. Additionally, the proposed increased fee charged under Liquidity Removal Tier 1 for executions of Removed Volume and the proposed reduced standard rebate for executions of Added Displayed Volume would apply equally to all Members. As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As noted 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. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, 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

[27] *See supra* note 20.

[28] *See supra* note 22.

[29] 15 U.S.C. 78f(b)(4) and (5).

[30] *See supra* note 25.

discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to executions of Added Displayed Volume and Removed Volume, and market 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. As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage additional order flow and quoting activity on the Exchange and to promote market quality through pricing incentives that are comparable to, and competitive with, pricing programs in place at other exchanges with respect to executions of Added Displayed Volume and Removed Volume,[31] as well as to generate additional revenue to offset some of the costs associated with the Exchange's current pricing structure and its operations generally. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar incentives to market participants that enhance market quality and/or achieve certain volume criteria and thresholds.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [32] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *SEC,* 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' . . . .''.[33] Accordingly, the Exchange does not believe its proposed pricing 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

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)(ii) of the Act [34] and Rule 19b–4(f)(2) [35] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–MEMX–2021–11 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–MEMX–2021–11. 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–MEMX–2021–11 and should be submitted on or before October 5, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19728 Filed 9–13–21; 8:45 am]

BILLING CODE 8011–01–P

[31] *See supra* notes 10, 20 and 22.

[32] *See supra* note 25.

[33] *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–NYSE–2006–21)).

[34] 15 U.S.C. 78s(b)(3)(A)(ii).

[35] 17 CFR 240.19b–4(f)(2).

[36] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17153 and #17154; Louisiana Disaster Number LA–00116]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–461–DR), dated 09/07/2021.

Incident: Hurricane Ida.

Incident Period: 08/26/2021 and continuing.

DATES: Issued on 09/07/2021. Physical Loan Application Deadline Date: 11/08/2021. Economic Injury (EIDL) Loan Application Deadline Date: 06/07/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/07/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes: Jefferson, Lafourche, Orleans, Saint Charles, Saint James, St John the Baptist, Terrebonne.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17153 8 and for economic injury is 17154 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–19758 Filed 9–13–21; 8:45 am]

BILLING CODE 8026–03–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Minor Modifications

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the minor modifications approved for a previously approved project by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: August 1–31, 2021.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists previously approved projects, receiving approval of minor modifications, described below, pursuant to 18 CFR 806.18 or to Commission Resolution Nos. 2013–11 and 2015–06 for the time period specified above:

Minor Modification Issued Under 18 CFR 806.18

1. Seneca Resources Company, LLC, Docket No. 20210611, Sergeant and Norwich Townships, McKean County, Pa.; approval authorizing the additional water use purpose for hydrostatic testing; Approval Date: August 18, 2021.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: September 9, 2021.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–19769 Filed 9–13–21; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Grandfathering (GF) Registration Notice

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: August 1–31, 2021.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above: *Grandfathering Registration Under 18 CFR part 806, Subpart E:*

1. ITG Cigars Inc.—McAdoo Facility, GF Certificate No. GF–202108180, Banks Township, Carbon County, Pa.; Wells 5 and 6 and consumptive use; Issue Date: August 6, 2021.

2. Bedford Elks Country Club, GF Certificate No. GF–202108181, Bedford Township, Bedford County, Pa.; consumptive use; Issue Date: August 6, 2021.

3. Wise Foods, Inc.—Berwick Facility, GF Certificate No. GF–202108182, Berwick Borough, Columbia County, Pa.; consumptive use; Issue Date: August 6, 2021.

Dated: September 9, 2021.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–19768 Filed 9–13–21; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: August 1–31, 2021.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (e) and 18 CFR 806.22 (f) for the time period specified above:

Water Source Approval—Issued Under 18 CFR 806.22(f)

1. Chesapeake Appalachia, L.L.C; Pad ID: Colcam; ABR–201108019.R2; Meshoppen Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 12, 2021.

2. Chesapeake Appalachia, L.L.C; Pad ID: Dewolf; ABR–201608002.R1; Windham Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 12, 2021.

3. Chesapeake Appalachia, L.L.C; Pad ID: Joe; ABR–201108014.R2; Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 12, 2021.

4. Chesapeake Appalachia, L.L.C; Pad ID: Mad Dog; ABR–201108021.R2; Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 16, 2021.

5. Repsol Oil & Gas USA, LLC.; Pad ID: SENN (05 253) W; ABR–201106001.R2; Windham Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 16, 2021.

6. Pennsylvania General Energy Company, L.L.C.; Pad ID:COP Tract 726 Pad C; ABR–202108001; Plunketts Creek Township, Lycoming County, Pa.; Consumptive Use of Up to 4.5000 mgd; Approval Date: August 16, 2021.

7. Pennsylvania General Energy Company, L.L.C.; Pad ID: COP Tract 729 Pad E; ABR–201107046.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.5000 mgd; Approval Date: August 20, 2021.

8. SWN Production Company, LLC; Pad ID: Bark'em Squirrel Pad; ABR–201107045.R2; New Milford Township, Susquehanna County; Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 20, 2021.

9. SWN Production Company, LLC; Pad ID: Lyncott Corp Pad; ABR–201107044.R2; New Milford Township, Susquehanna County; Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 20, 2021.

10. Chesapeake Appalachia, L.L.C; Pad ID: Alexander; ABR–201108031.R2; Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 23, 2021.

11. Chesapeake Appalachia, L.L.C; Pad ID: Susan; ABR–201108036.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 23, 2021.

12. Chesapeake Appalachia, L.L.C; Pad ID: Tyler; ABR–201108034.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 23, 2021.

13. Chesapeake Appalachia, L.L.C; Pad ID: Adams; ABR–201108038.R2; Windham Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 26, 2021.

14. Chesapeake Appalachia, L.L.C; Pad ID: Hillis; ABR–201108035.R2; Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 26, 2021.

15. XTO Energy, Inc.; Pad ID: PA Tract Unit I; ABR–201108040.R2; Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 26, 2021.

16. XTO Energy, Inc.; Pad ID: PA Tract Unit E; ABR–201108041.R2; Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 26, 2021.

17. ARD Operating, LLC; Pad ID: H Lyle Landon Pad A; ABR–201106020.R2; Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 27, 2021.

18. ARD Operating, LLC; Pad ID: Larry's Creek F&G Pad H; ABR–201106019.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 27, 2021.

19. Chesapeake Appalachia, L.L.C.; Pad ID: Albertson; ABR–201108048.R2; Athens Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 30, 2021.

20. Chesapeake Appalachia, L.L.C.; Pad ID: Merryall; ABR–201108047.R2; Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: August 31, 2021.

21. Chief Oil & Gas, LLC; Pad ID: Savage Drilling Pad #1; ABR–201108018.R2; Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: August 31, 2021.

22. Repsol Oil & Gas USA, LLC; Pad ID: EVERTS (03 086) P; ABR–201606006.R1; Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: August 31, 2021.

23. Cabot Oil & Gas Corporation; Pad ID: Mogridge P1; ABR–201108005.R1; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: August 31, 2021.

24. SWN Production Company, LLC; Pad ID: Van Order Pad; ABR–201107042.R2; Lawrence Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: August 31, 2021.

25. ARD Operating, LLC; Pad ID: COP Tr 357 Pad B; ABR–201007072.R2; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: August 31, 2021

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: September 9, 2021.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–19767 Filed 9–13–21; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice of Surplus Property Release; Spokane International Airport, Spokane, Washington

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

ACTION: Notice of request to release surplus property.

SUMMARY: Notice is being given that the FAA is considering a request from the City of Spokane, Washington and the County of Spokane, Washington, to waive the surplus property requirements for approximately 2.9 acres of airport property located at Spokane International Airport, in Spokane, Washington. The subject property is located away from the aeronautical area and currently includes two existing city water reservoirs located in the southeast section of the business park. This release will allow the City and the County to sell a portion of 1 parcel of airport property to the City of Spokane and to construct an additional potable water reservoir. There will be proceeds generated from the proposed release of this property for capital improvements at the airport. The City and County will receive not less than fair market value for the property and the revenue generated from the sale will be used for airport purposes. It has been determined through study that the subject partial parcel will not be needed for aeronautical purposes.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Ms. Mandi M. Lesauis, Program Specialist, Seattle Airports District Office, *mandi.lesauis@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Mandi M. Lesauis, Program Specialist,

Seattle Airports District Office, *mandi.lesauis@faa.gov,* (206) 231–4140.

Issued in Des Moines, Washington on September 9, 2021.

Warren D. Ferrell,

Acting Manager, Seattle Airports District Office.

[FR Doc. 2021–19796 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Rescinding a Notice of Intent To Prepare an Environmental Impact Statement for the I–71/I–75 Brent Spence Bridge Corridor Improvements Project, Hamilton County, OH and Kenton County, KY

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice to rescind a notice of intent to prepare an environmental impact statement.

SUMMARY: The FHWA, in cooperation with the Ohio Department of Transportation (ODOT), is issuing this Notice to advise the public that we are rescinding the July 20, 2006 Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) for the I–71/I–75 Brent Spence Bridge corridor improvements project, located in Hamilton County, Ohio and Kenton County, Kentucky. We are rescinding the NOI because the project was down scoped to an Environmental Assessment (EA) in 2010 and a Finding of No Significant Impact (FONSI) was issued in 2012.

FOR FURTHER INFORMATION CONTACT: For FHWA: Laura S. Leffler, Division Administrator, Federal Highway Administration, Ohio Division, 200 North High Street, Suite 328, Columbus, OH 43215, Telephone: (614) 280–6896, Email: *Laurie.leffler@dot.gov.* For ODOT: Timothy McDonald, Deputy Director, Division of Planning, 1980 West Broad Street, Mail Stop 3200, Columbus, OH 43223, Telephone: (614) 644–0273, Email: *Tim.McDonald@dot.ohio.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may 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.*

Background

The FHWA, in cooperation with the ODOT, previously intended to prepare an EIS for proposed improvements to I–71/I–75 and connecting routes in the vicinity of the existing Brent Spence Bridge Ohio River crossing and the Cities of Cincinnati, OH and Covington, KY. The NOI, which was published in the **Federal Register** on July 20, 2006 (71 FR 41310), indicated that the purpose and need of the project was to improve traffic flow and level of service, improve safety, correct geometric deficiencies, and maintain links in key mobility, trade, and national defense transportation corridors.

As stated in the 2006 NOI, alternatives under consideration included: (1) Taking no action; (2) rehabilitation/upgrading of the existing infrastructure combined with construction of new facilities on new alignment; (3) replacement infrastructure on new alignment; and, (4) other alternatives that may be developed during the National Environmental Policy Act (NEPA) process. During the NEPA process, the conceptual alternatives were narrowed to feasible alternatives that essentially stayed on the I–71/75 mainline, reducing the potential impacts from the project. Due to this, ODOT asked that the project be down scoped to an EA on December 11, 2009, which FHWA agreed to on March 11, 2010. An EA was prepared and a FONSI was approved on August 9, 2012. However, the NOI was not rescinded at that time. FHWA is rescinding the NOI at this time. Should a need to prepare an EIS arise in the future, then another NOI would be issued at that time.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 42 U.S.C. 4321 *et seq.;* 23 CFR part 771.

Issued on: September 8, 2021.

Laura S. Leffler,

Ohio Division Administrator, Federal Highway Administration.

[FR Doc. 2021–19745 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0362]

Medical Review Board (MRB); Notice of Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Medical Review Board Advisory Committee (MRB), which will take place via videoconference.

DATES: The meeting will be held on Wednesday, September 29, 2021, from 1:00 to 5:00 p.m., Eastern Time (ET). The meeting will be open to the public for its entirety. Advance registration is recommended via the FMCSA website at *www.fmcsa.dot.gov/mrb.* Requests for accommodations because of a disability must be received by September 16, 2021. Requests to submit written materials to be reviewed during the meeting must be received no later than September 20, 2021. Please register to attend the meeting by September 20, 2021.

ADDRESSES: The meeting will be held via videoconference. To indicate that you will attend, please register at *www.fmcsa.dot.gov/mrb.* Those members of the public who would like to participate should go to *https://www.fmcsa.dot.gov/advisory-committees/mrb/meetings* to access the meeting, task statements, a detailed agenda for the entire meeting, meeting minutes and additional information on the committee and its activities. The meeting will be recorded, and a link to the recording will be posted on the FMCSA website.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 3660–2925, *mrb@dot.gov.* Any committee-related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The MRB was created under the Federal Advisory Committee Act (FACA), in accordance with section 4116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, SAFETEA–LU, Public Law 109–59 (2005) (codified as amended at 49 U.S.C. 31149), to provide

advice to FMCSA on ''medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely.'' The MRB operates in accordance with FACA under the terms of the MRB charter, filed November 25, 2019.

II. Agenda

At the meeting, the agenda will cover MRB's consideration of the U.S. Food and Drug Administration's June 30, 2021 announcement regarding the voluntary recall of certain Continuous Positive Air Pressure (CPAP) machines due to potential health risks. FMCSA will task the MRB with providing recommendations about how to best assist medical examiners on the National Registry of Certified Medical Examiners (National Registry) and the commercial motor vehicle (CMV) drivers who use these CPAPs on identifying reliable sources of information concerning options for drivers with machines covered by the recall.

III. Meeting Participation

Although not required, advance registration is encouraged. To indicate that you will attend, please register at the website listed in the **ADDRESSES** section by the deadline referenced in the **DATES** section. The meeting will be open to the public for its entirety.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Verbal comments from the public will be heard throughout the meeting, at the discretion of the MRB chairman and designated federal officer. These statements may be limited in duration to ensure that all who wish to comment may do so. Members of the public may submit written comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section on the topics to be considered during the meeting by the deadline referenced in the **DATES** section. Any member of the public may submit a written statement after the meeting deadline, and it will be presented to the committee.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–19803 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2021 Competitive Funding Opportunity: Route Planning Restoration Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for $25,000,000 in Fiscal Year (FY) 2021 funding under the Route Planning Restoration Program (Federal Assistance Listing: 20.505). As required by Federal public transportation law and subject to funding availability, funds will be awarded competitively to support planning designed to (i) increase ridership and reduce travel times, while maintaining or expanding the total level of vehicle revenue miles of service provided in the planning period; or (ii) make service adjustments to increase the quality or frequency of service provided to low-income riders and disadvantaged neighborhoods or communities. FTA may award additional funding that is made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. EDT November 15, 2021. Prospective applicants should initiate the process by registering on the *GRANTS.GOV* website promptly to ensure completion of registration before the submission deadline. Instructions for applying can be found on FTA's website at *https://www.transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV*. The *GRANTS.GOV* funding opportunity ID is FTA–2021–007–TPE. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Colby McFarland, FTA Office of Planning and Environment, (202) 366–1648, or *Colby.McFarland@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Program Description
B. Federal Award Information
C. Eligibility Information
D. Application and Submission Information
E. Application Review Information
F. Federal Award Administration Information
G. Federal Awarding Agency Contacts
H. Other Information

A. Program Description

The American Rescue Plan Act of 2021 (Pub. L. 117–2, March 11, 2021) provides funds to eligible applicants for the planning of public transportation associated with the restoration of transit service as the coronavirus disease 2019 (COVID–19) pandemic subsides. This funding opportunity is being announced under Federal Assistance Listing Number 20.505.

FTA will competitively award grants to undertake transit route planning activities that are designed to (i) increase ridership and reduce travel times, while maintaining or expanding the total level of vehicle revenue miles of service provided in the planning period; or (ii) make service adjustments to increase the quality or frequency of service provided to low-income riders and disadvantaged neighborhoods or communities. Route Planning Restoration Program grant projects may be in partnership with other local governmental entities, non-profits, social service organizations, or housing agencies, among others to identify barriers to opportunity for low-income riders and disadvantaged neighborhoods and communities that are dependent on transit.

This program supports FTA's strategic goals and objectives through timely and efficient investment in public transportation. This program supports the President's plan to mobilize American ingenuity to build a modern infrastructure and an equitable future. By planning for the restoration of transit service that increases access for environmental justice populations, utilizes equity-focused community outreach and public engagement of underserved communities, and adopts equity-focused policies, this NOFO advances the goals of Executive Order 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. Additionally, intelligent route planning and transit service restoration can help reduce greenhouse gas emissions, in support of Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle Climate Crisis; and Executive

Order 14008: Tackling the Climate Crisis at Home and Abroad.

B. Federal Award Information

FTA intends to award all available funding ($25 million) in the form of grants to selected applicants responding to this NOFO. Additional funds made available prior to project selection may be allocated to eligible projects. Only proposals from eligible recipients for eligible activities will be considered for funding. FTA anticipates maximum grant awards of $1,000,000.

C. Eligibility Information

1. Eligible Applicants

Applicants must be eligible recipients under Section 5307 of Title 49, United States Code (FTA's Urbanized Area Formula Grants program), as of the publication date of this NOFO on *GRANTS.GOV*.

Additionally, applicants must have experienced a reduction in transit service any time on or after January 20, 2020, as a result of the COVID–19 pandemic.

2. Cost Sharing or Matching

The Federal funding share is 100 percent. FTA will not review more favorably applications that propose non-Federal funding contributions.

3. Eligible Projects

Projects must be associated with a public transportation service area that experienced a reduction in transit services from pre-pandemic levels any time on or after January 20, 2020, as a result of the COVID–19 pandemic. Any planning activities proposed for funding must be designed to (i) increase ridership and reduce travel times, while maintaining or expanding the total level of vehicle revenue miles of service provided in the planning period; or (ii) make service adjustments to increase the quality or frequency of service provided to low-income riders and disadvantaged neighborhoods or communities. For a discussion of eligible planning activities, applicants should refer to FTA Circular C8100.1D—Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, and FTA Circular 9030.1E—Urbanized Area Formula Program: Program Guidance and Application Instructions. Eligible applicants should utilize the definition of ''low-income individual'' in 49 U.S.C. 5302(11) when considering the service provided to ''low-income riders'' and the definitions of ''minority population'' and ''low-income population'' found in FTA Circular C4702.1B—Title VI Requirements and Guidelines for Federal Transit Administration Recipients when considering the service provided to ''disadvantaged neighborhoods or communities'' for the purposes of this program.

FTA will not make awards for:

a. Capital, operating, or maintenance activities;

b. Route planning specifically related to transitioning public transportation service provided as of the date of receipt of funds to a transportation network company or other third-party contract provider, unless the existing provider of public transportation service is a third-party contract provider; or

c. Route planning focused on public transportation service areas that have not experienced a reduction in service any time on or after January 20, 2020, as a result of the COVID–19 pandemic.

D. Application and Submission Information

1. Address To Request Application Package

A complete proposal submission includes two forms: The Standard Form (SF)–424 Application for Federal Assistance (downloaded from *GRANTS.GOV*) and the supplemental form for the FY 2021 Route Planning Restoration Program (downloaded from *GRANTS.GOV* or the FTA website at *www.transit.dot.gov.*

2. Content and Form of Application Submission

A complete proposal must include a completed SF–424 and the following documents attached to the ''Attachments'' section of the SF–424:

i. A supplemental form for the Route Planning Restoration Program. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in Part E of this notice; and

ii. A map of the proposed study area showing the transit routes, low-income and other disadvantaged neighborhoods or communities, major roadways, major landmarks, and the geographic boundaries of the proposed planning activities.

FTA will accept only one supplemental form per SF–424 submission.

Applicants may attach additional supporting information to the SF–424 submission, including but not limited to letters of support, project budgets, relevant data, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

A complete application must include responses to all sections of the SF–424 and the supplemental form. Information such as the applicant's name, Federal amount requested, and description of the study area are requested in varying degrees of detail on both the SF–424 and supplemental form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should not place ''N/A'' or ''refer to attachment'' in lieu of typing in responses in the field sections. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' buttons on both forms to check all required fields, and ensure the Federal amounts requested are consistent.

The SF–424 and supplemental form will prompt applicants to address the following items:

i. Provide the name of the lead applicant and, if applicable, the specific co-sponsors submitting the application.

ii. Provide the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number.

iii. Provide contact information including: Contact name, title, address, phone number, and email address.

iv. Specify the Congressional district(s) where the planning project will take place.

v. Identify the project title and project scope to be funded, including anticipated substantial deliverables and the milestones at when they will be provided to FTA.

vi. Identify and describe an eligible transit planning project that meets the requirements of Section C, subsection 3 of this notice.

vii. Address each evaluation criterion separately, demonstrating how the project responds to each criterion described in Section E.

viii. Provide a line-item budget for the total planning effort, with enough detail to show the various key components of the planning project.

ix. Identify the Federal amount requested.

x. Provide an explanation of the scalability of the project.

xi. Address whether other Federal funds have been sought or received for the planning project.

xii. Provide a schedule and process for the development of the plan that includes anticipated dates for completing major tasks and substantial deliverables, and for completing the overall planning effort.

xiii. Identify potential State, local or other impediments to the products of the planning work and its implementation, and how the impediments will be addressed.

xiv. Address the extent to which the proposed activities address climate change. Applicants should identify any air quality nonattainment or maintenance areas under the Clean Air Act in the planning or study area. Nonattainment or maintenance areas should be limited to the following applicable National Ambient Air Quality Standards criteria pollutants: Carbon monoxide, ozone, and particulate matter 2.5 and 10. The U.S. Environmental Protection Agency's Green Book (available at *https://www.epa.gov/green-book*) is a publicly-available resource for nonattainment and maintenance area data. This consideration will further the goals of Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, and Executive Order 14008: Tackling the Climate Crisis at Home and Abroad.

xv. Describe how the proposed activities serve environmental justice populations and other disadvantaged neighborhoods or communities, promote racial equity, and reduce barriers to opportunity.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. These requirements do not apply if the applicant is an individual or has an exemption approved by FTA or the U.S. Office of Management and Budget pursuant to 2 CFR 25.110. SAM registration takes approximately 3–5 business days, but FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. EDT November 15, 2021. *GRANTS.GOV* attaches a time stamp to each application at the time of submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Applications are time and date stamped by *GRANTS.GOV* upon successful submission. Mail and fax submissions will not be accepted.

Within 48 hours after submitting an electronic application, the applicant should receive two email messages from *GRANTS.GOV*: (1) Confirmation of successful transmission to *GRANTS.GOV*; and (2) confirmation of successful validation by *GRANTS.GOV*. FTA will then validate the application and will attempt to notify any applicants whose applications could not be validated. If the applicant does not receive confirmation of successful validation or a notice of failed validation or incomplete materials, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating it is a resubmission. An application that is submitted at the deadline and cannot be validated will be marked as incomplete and will not receive additional time to re-submit.

FTA urges applicants to submit their applications at least 96 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website. Deadlines will not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the registration process on the *GRANTS.GOV* site well in advance of the submission deadline. Registration in *GRANTS.GOV* is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

See Section C of this NOFO for detailed eligibility requirements. Funds must be used only for the specific purposes requested in the application. Allowable direct and indirect expenses must be consistent with the Governmentwide Uniform Administrative Requirements and Cost Principles (2 CFR part 200) and FTA Circular C5010.1E—Award Management Requirements.

Funds awarded under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to an FTA award under this program. FTA will issue pre-award authority to incur costs for selected projects beginning on the date that project selections are announced. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. FTA will issue specific guidance to awardees regarding pre-award authority at the time of selection. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice on FTA's website.

6. Other Submission Requirements

All applications must be submitted via the *GRANTS.GOV* website. FTA does not accept applications on paper, by fax machine, email, or other means. For information on application submission requirements, please see Section D.1., Address to Request Application and Section D.4., Submission Dates and Times.

E. Application Review Information

1. Criteria

Project proposals will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. Applications will be evaluated based on the quality and extent to which the following evaluation criteria are addressed.

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount.

If an applicant proposes that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award.

a. Demonstrated Need

FTA will evaluate each project to determine the need for funding based on the following factors:

i. Pre-pandemic service levels versus current service levels using both absolute numbers and relative proportions of service reduction and elimination of:

a. Service routes and route mileage; and

b. Scheduled daily hours of service; and

c. Vehicle-revenue miles of service.

ii. Pre-pandemic versus current levels of ridership due to reduced or eliminated services:

a. Number and percentage of all transit riders impacted by reduced or eliminated services; and

b. Number and percentage of low-income transit riders impacted by reduced or eliminated services.

iii. Pre-pandemic versus current numbers and percentages of low-income residents of affected neighborhoods or communities. Number and percentage of residents of affected disadvantaged neighborhoods or communities.

b. Demonstrated Benefits

FTA will evaluate the potential benefits of the proposed planning project based on the extent to which the public transit route planning activity would address the following:

i. Transit service levels;

ii. Anticipated ridership;

iii. Anticipated transit travel times;

iv. Improved transit service quality provided to low-income riders;

v. Improved transit service frequency provided to low income riders;

vi. Improved transit service quality provided to disadvantaged neighborhoods or communities;

vii. Improved transit service frequency provided to disadvantaged neighborhoods or communities.

viii. Racial Equity and Barriers to Opportunity; FTA will evaluate the extent to which the route planning study addresses racial equity and barriers to opportunity, including automobile dependence as a barrier. FTA will also consider the extent to which applications incorporate such activities as equity-focused community outreach and public engagement of low-income transit riders, disadvantaged neighborhoods and communities in the planning process, and adoption of an equity and inclusion program or plan or equity-focused policies; and

ix. Environmental Justice. FTA will evaluate the extent to which the route planning study will support increased access to transit for environmental justice populations and engages such populations in plan or study development.

c. Project Implementation Strategy

FTA will evaluate the strength of the work plan, schedule and process included in an application based on the following factors:

i. Extent to which the schedule contains sufficient detail, identifies all deliverables and steps needed to implement the work proposed, and is achievable;

ii. Extent to which deliverables would provide guidelines implementing a realistic sequence of route restoration steps that could be taken to restore and/or expand transit service levels to improve ridership and serve low-income riders and disadvantaged neighborhoods or communities;

iii. Extent to which the route planning process will engage the local public, including low-income riders and disadvantaged neighborhoods or communities, as well as stakeholder groups; and

iv. Extent to which there is coordination with city/county local government agencies, the metropolitan planning process, local social service agencies, housing authorities, and employers.

v. Use of reliable route planning methods to undertake the route planning activities to estimate future ridership, changes in travel times, increases in vehicle revenue miles, and quality of transit service.

vi. Use of reliable data and route planning methods to identify low-income riders and disadvantaged communities and neighborhoods and assess equitable provision of transit service to low income riders and disadvantaged neighborhoods or communities.

vii. Identification of deliverables (service plans, routing schemes, etc.) that will be produced from the route planning study.

d. Technical, Legal, and Financial Capacity

Applicants must demonstrate they have the technical, legal, and financial capacity to undertake the project. FTA will review relevant oversight assessments and records to determine whether there are any outstanding legal, technical, or financial issues with the applicant that would affect the outcome of the proposed project. Applicants with unresolved legal, technical, or financial compliance issues from an FTA compliance review or Federal grant-related Single Audit finding must explain how corrective actions taken will mitigate negative impacts on the proposed project.

2. Review and Selection Process

In addition to other FTA staff who may review the proposals, a technical evaluation committee will verify each proposal's eligibility and evaluate proposals based on the published evaluation criteria. Members of the technical evaluation committee and other FTA staff may request additional information from applicants, if necessary.

Based on the findings of the technical evaluation committee, the FTA Administrator will determine the final selection of projects for program funding. In determining the allocation of program funds, FTA may consider geographic diversity, diversity in the size of the grant recipients receiving funding, or the applicant's receipt of other competitive awards.

3. Performance and Integrity Review

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information Systems (FAPIIS) accessible through SAM. An applicant may review and comment on information about itself that a Federal awarding agency previously entered. FTA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.206 Federal awarding agency review of risk posed by applicants.

F. Federal Award Administration Information

1. Federal Award Notices

The FTA Administrator will announce the final project selections on the FTA website. Selected applicants should contact their FTA regional office for additional information regarding allocations for projects under the Route Planning Restoration Program.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. FTA does not provide pre-award authority for competitive funds until projects are selected and even then, there are Federal requirements that must be met before costs are incurred. Funds under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement until FTA has issued pre-award authority for selected projects, or unless FTA has issued a ''Letter of No Prejudice'' for the project before the expenses are incurred. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice at: *https://www.transit.dot.gov.*

b. Grant Requirements

If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). All competitive grants, regardless of award amount, will be subject to the Congressional Notification and release process. Technical assistance regarding these requirements is available from each FTA regional office.

c. Disadvantaged Business Enterprise

FTA requires its recipients receiving planning, capital, or operating assistance that will award prime contracts exceeding $250,000 in FTA funds in a Federal fiscal year comply with the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) program regulations (49 CFR part 26). Applicants should expect to include any funds awarded in setting their overall DBE goal.

d. Planning

FTA encourages applicants to notify the appropriate metropolitan planning organizations in areas likely to be served by the funds made available under this program. Selected projects must be incorporated into the unified planning work programs of metropolitan areas before they are eligible for FTA funding or pre-award authority.

e. Standard Assurances

If selected, the applicant must assure that it will comply with all applicable Federal statutes, regulations, executive orders, directives, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it will be under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The most recent Federal requirements will apply to the project unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

3. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system on a quarterly basis. Applicants should include any goals, targets, and indicators referenced in their application to the project in the Executive Summary of the TrAMS application. Awardees must also submit copies of the substantial deliverables identified in the work plan to the FTA regional office at the corresponding milestones.

As part of completing the annual Certifications and Assurances required of FTA grant recipients, a successful applicant must report on the suspension or debarment status of itself and its principals.

If the award recipient's active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceed $10,000,000 for any period of time during the period of performance of an award made pursuant to this Notice, the recipient must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government. See Appendix XII to 2 CFR part 200 for more information.

G. Federal Awarding Agency Contacts

For program-specific questions, please contact Colby McFarland, Office of Planning and Environment, (202) 366–1648, email: *Colby.McFarland@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS). Any addenda that FTA releases on the application process will be posted at *https://www.transit.dot.gov.* To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact FTA directly, rather than through intermediaries or third parties. FTA staff may also conduct briefings on the FY 2021 competitive grants selection and award process upon request. Contact information for FTA's regional offices can be found on FTA's website at *http://www.transit.dot.gov.* For assistance with *GRANTS.GOV*, please contact *GRANTS.GOV* by phone at 1–800–518–4726 or by email at *support@grants.gov.*

H. Other Program Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Nuria I. Fernandez,

Administrator.

[FR Doc. 2021–19735 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2021–0209]

Agency Request for Approval of a New Information Collection: Mariner Survey Pre-Test

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. This Mariner Survey Pre-Test collection provides for cognitive interviews and a pilot survey of a sample of appropriately credentialed U.S. merchant mariners to validate and improve the study design for a subsequent Mariner Survey.

DATES: Written comments should be submitted by November 15, 2021. MARAD will consider comments filed after this date to the extent practicable.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2021–0209 through one of the following methods:

- *Electronic Submission:* Go to *http://www.regulations.gov.* Search by using the docket number (provided above). Follow the instructions for submitting comments on the electronic docket site.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200

New Jersey Avenue SE, Room PL–401, Washington, DC 20590–0001.

• *Hand Delivery:* Room PL–401 of the Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number.

Note: All comments received, including any personal information, will be posted without change to the docket and is accessible via *http://www.regulations.gov* . Input submitted online via *www.regulations.gov* is not immediately posted to the site. It may take several business days before your submission is posted.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room PL–401 of the Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The Federal Docket Management Facility's telephone number is 202–366–9826 or 202–366–9317, the fax number is 202–493–2251.

FOR FURTHER INFORMATION CONTACT: You may contact Nuns Jain, Maritime Administration, at 757–322–5801 or by electronic mail at *Nuns.Jain@dot.gov.* You may send mail to Nuns Jain at Maritime Administration, Building 19, Suite 300, 7737 Hampton Boulevard, Norfolk, Virginia 23505. If you have questions on viewing the Docket, call Docket Operations, telephone: 202–366–9826 or 202–366–9317.

SUPPLEMENTARY INFORMATION:

Title of Collection: Mariner Survey Pre-Test.

OMB Control Number: 2133–NEW.

Form Number: Not Applicable.

Type of Review: New information collection.

Background: This voluntary Mariner Survey Pre-Test information collection is limited to cognitive interviews and a pilot survey of a sample of appropriately credentialed U.S. merchant mariners to validate and improve the design of the questionnaire and other survey components for a subsequent full Mariner Survey. The cognitive interviews will be conducted online or via telephone. The pilot survey responses will be primarily collected via an online survey, with a mail survey option.

Upon completion of this Pre-Test collection and analysis, MARAD intends to request separate approval for the full biennial Mariner Survey of all appropriately credentialed U.S. merchant mariners to determine the number of qualified mariners who are available and willing to serve on short notice on U.S. government-owned sealift ships or commercial ships during a period of national need. The most recent survey of this scope was completed in 2002. The availability of a reliable, current estimate on the number of mariners willing to serve in times of war, armed conflict, or national emergency is critical to the U.S. national security.

Respondents: Appropriately credentialed U.S. merchant mariners.

Affected Public: Individuals or Households.

Total Estimated Number of Responses: 690 (40 for cognitive interviews; 650 for pilot survey).

Frequency: One-time.

Estimated Time per Respondent: 45 minutes for cognitive interviews; 20 minutes for pilot survey.

Total Estimated Number of Annual Burden Hours: 247.

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 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.

(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. 2021–19808 Filed 9–13–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to Interest Rates and Appropriate Foreign Loss Payment Patterns of Certain Controlled Corporations

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 related to the interest rates and appropriate foreign loss payment patterns for determining the qualified insurance income of certain controlled corporations under section 954(f).

DATES: Written comments should be received on or before November 15, 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. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Interest Rates and Appropriate Foreign Loss Payment Patterns for Determining the Qualified Insurance Income of Certain Controlled Corporations under Section 954(f).

OMB Number: 1545–1799.

Regulation/Project Number: Notice 2002–69.

Abstract: Notice 2002–69 (2002–43 I.R.B. 730) published October 28, 2002, provides interim guidance for determining the interest rates and appropriate foreign loss payment patterns to be used by controlled foreign corporations in calculating their qualified insurance income under section 954(i) of the Internal Revenue Code. Taxpayers may rely on the guidance in this notice until regulations or other guidance are published.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business, or other for-profit organizations.

Estimated Number of Responses: 300.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 300.

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.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: September 9, 2021.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2021–19779 Filed 9–13–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Research Advisory Committee

AGENCY: Office of Financial Research, Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: The Financial Research Advisory Committee for the Treasury's Office of Financial Research (OFR) is convening for its eighteenth meeting on Wednesday, September 29, 2021 via webcast, beginning at 10:00 a.m. Eastern Time. The meeting will be open to the public, and advance registration is required.

DATES: The meeting will be held Wednesday, September 29, 2021, beginning at 10:00 a.m. Eastern Time.

ADDRESSES: The meeting will be held via webcast using Zoom. Participants are required to register ahead of time. Register in advance for the meeting using this Zoom attendee registration link: *https://ofr-treasury.zoomgov.com/webinar/register/WN_ceA_TMBGTzOIlUVlIUDNZg.*

After registering, you will receive a confirmation email with a unique link to join the meeting.

Reasonable Accommodation: If you require a reasonable accommodation or sign language interpreter, please contact *ReasonableAccommodationRequests@treasury.gov.* Please submit requests at least five days before the event.

FOR FURTHER INFORMATION CONTACT: Melissa Avstreih, Designated Federal Officer, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 927–8032 (this is not a toll-free number), or *OFR_FRAC@ofr.treasury.gov.* Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, 10(a)(2), through implementing regulations at 41 CFR 102–3.150, *et seq.*

Public Comment: Members of the public wishing to comment on the business of the Financial Research Advisory Committee are invited to submit written statements by any of the following methods:

- *Electronic Statements.* Email the Committee's Designated Federal Officer at *OFR_FRAC@ofr.treasury.gov.*
- *Paper Statements.* Send paper statements in triplicate to the Financial Research Advisory Committee, Attn: Melissa Avstreih, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

The OFR will post statements on the Committee's website, *https://www.financialresearch.gov/frac/,* including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. The OFR will also make such statements available for public inspection and copying in the Department of the Treasury's library, Annex Room 1020, 1500 Pennsylvania Avenue NW, Washington, DC 20220 on official business days between the hours of 8:30 a.m. and 5:30 p.m. Eastern Time. You may make an appointment to inspect statements by calling (202) 622–0990. All statements, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Agenda/Topics for Discussion: The Committee provides an opportunity for researchers, industry leaders, and other qualified individuals to offer their advice and recommendations to the OFR, which, among other things, is responsible for collecting and standardizing data on financial institutions and their activities and for supporting the work of the Financial Stability Oversight Council.

This is the eighteenth meeting of the Financial Research Advisory Committee. Topics to be discussed among all members are the transition from the London Interbank Offered Rate to alternative benchmarks, the Office of Financial Research's work related to central clearing parties, and cybersecurity. For more information on the OFR and the Committee, please visit the OFR's website at *https://www.financialresearch.gov.*

Sean Dillon,

Senior Advisor.

[FR Doc. 2021–19751 Filed 9–13–21; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0021]

Agency Information Collection Activity: VA LOAN ELECTRONIC REPORTING INTERFACE (VALERI) SYSTEM

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans 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 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 November 15, 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. 2900–0021'' 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. 2900–0021'' 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 CFR 36.4338(a).

Title: VA LOAN ELECTRONIC REPORTING INTERFACE (VALERI) SYSTEM.

OMB Control Number: 2900–0021.

Type of Review: Extension of an approved information collection.

Abstract: VA is submitting a regular extension for an already approved collection. VA provides the authority for VA-guaranteed mortgage servicers to assist Veteran borrowers and their families experiencing financial difficulty. VA then provides oversight of the servicers' actions by collecting specific documentation and data. In today's environment, this collection is done via the VALERI application.

VA submitted an emergency information collection request, which was approved to January 31, 2022, to account for data collection requirements associated with the COVID–19 Refund Modification. Much like VA's temporary COVID–19 Veterans Assistance Partial Claim Payment program (COVID–VAPCP), servicers who offer the COVID–19 Refund Modification are required to report information related to selecting this home retention option to VA electronically.

Affected Public: Individuals or Households.

Estimated Annual Burden: 70 hours.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: One time.

Estimated Number of Respondents: 967.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer, Alt, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–19739 Filed 9–13–21; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 86 Tuesday,

No. 175 September 14, 2021

Part II

Department of Energy

10 CFR Part 431

Energy Conservation Program: Test Procedure for Distribution Transformers; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0055]

RIN 1904–AE19

Energy Conservation Program: Test Procedure for Distribution Transformers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (''DOE'') is amending the test procedure for distribution transformers to revise and add definitions of certain terms, update provisions based on the latest versions of relevant industry testing standards, and to specify the basis for voluntary representations at additional per-unit loads and additional reference temperatures. The updates in this final rule will not significantly change the test procedure.

DATES: The effective date of this rule is October 14, 2021. The final rule changes will be mandatory for product testing starting March 14, 2022.

ADDRESSES: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket web page can be found at *www.regulations.gov/docket/EERE-2017-BT-TP-0055.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2555. Email: *matthew.ring@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background
A. Authority
B. Background
II. Synopsis of the Final Rule
III. Discussion
A. Scope of Applicability
B. Updates to Industry Testing Standards
1. Recission of NEMA TP 2
2. Updates to IEEE Standards
C. Definitions
1. Rectifier Transformers and Drive Transformers
2. New Definitions
3. Updated Definitions
D. Per-Unit Load Testing Requirements
1. Multiple-PUL Weighted-Average Efficiency Metric
2. Single-PUL Efficiency Metric
3. Voluntary Representations of Efficiency at Additional PULs
E. Multiple Voltage Capability
F. Other Test Procedure Topics
1. Per-Unit Load Specification
2. Reference Temperature Specification
3. Measurement Location
4. Specification for Stabilization of Current and Voltage
5. Ambient Temperature Tolerances
6. Harmonic Current
7. Other Editorial Revisions
G. Effective and Compliance Dates
H. Test Procedure Costs
IV. Procedural Issues and Regulatory Review
A. Review Under Executive Order 12866
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act of 1995
D. Review Under the National Environmental Policy Act of 1969
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 12630
J. Review Under Treasury and General Government Appropriations Act, 2001
K. Review Under Executive Order 13211
L. Review Under Section 32 of the Federal Energy Administration Act of 1974
M. Congressional Notification
V. Approval of the Office of the Secretary

I. Authority and Background

DOE is authorized to establish and amend energy conservation standards and test procedures for certain industrial equipment, including distribution transformers. The current DOE test procedure for distribution transformers appear at title 10 of the Code of Federal Regulations (''CFR'') 431.193 and appendix A to subpart K of 10 CFR part 431 (''appendix A'') respectively. The current energy conservation standards for distribution transformers appear at 10 CFR 431.196. The following sections discuss DOE's authority to establish test procedures for distribution transformers and relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified) Title III, Part B[2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles (42 U.S.C. 6291–6309, as codified), which sets forth a variety of provisions designed to improve energy efficiency of specified consumer products. Title III, Part C[3] of EPCA, added by the National Energy Conservation Policy Act, Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment (42 U.S.C. 6311–6317, as codified), which sets forth a variety of provisions designed to improve energy efficiency of certain industrial equipment. This equipment includes distribution transformers, the subject of this final rule. (42 U.S.C. 6317(a))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA for distribution transformers specifically include definitions (42 U.S.C. 6291; 42 U.S.C. 6311), test procedures (42 U.S.C. 6293; 42 U.S.C. 6317), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6317), and the authority to require information and reports from manufacturers (42 U.S.C. 6296; 42 U.S.C. 6316).

The Federal testing requirements consist of test procedures that manufacturers of covered products and covered equipment must use as the basis for: (1) Certifying to DOE that their products or equipment comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6316(a)), and (2) making representations about the efficiency of those covered products or

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

covered equipment (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the products or equipment comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s); 42 U.S.C. 6316(a))

Federal energy efficiency requirements for covered products and covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297; 42 U.S.C. 6316(a) and (b)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d); 42 U.S.C. 6316(b)(2)(D))

EPCA set forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products [4] and covered equipment, respectively. EPCA requires that any test procedures prescribed or amended under these sections be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); *see also* 42 U.S.C. 6314(a)(2))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product and covered equipment, including distribution transformers, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6293(b)(1)(A); *see also* 42 U.S.C. 6314(a)(1))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products or covered equipment involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this final rule in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A); *see also* 42 U.S.C. 6314(b)(1))

DOE is issuing this final rule to amend the test procedure for distribution transformers in accordance with its statutory obligations.

B. Background

With respect to distribution transformers, EPCA states that the test procedures for distribution transformers shall be based on the ''Standard Test Method for Measuring the Energy Consumption of Distribution Transformers'' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). (42 U.S.C. 6293(b)(10)(A)) Further, DOE may review and revise the DOE test procedure. (42 U.S.C. 6293(b)(10)(B))

Consistent with the requirements in EPCA, DOE published a final rule on April 27, 2006, that established the test procedure for distribution transformers based on the test methods in NEMA TP 2–1998 and the test methods contained in the Institute of Electrical and Electronics Engineers (''IEEE'') Standards C57.12.90–1999 and C57.12.91–2001. 71 FR 24972, 24974. *See* 71 FR 24972 (April 27, 2006) (''April 2006 Final Rule'').[5]

In a final rule published on April 18, 2013, amending the energy conservation energy conservation standards (''ECS'') for distribution transformers (''April 2013 ECS Final Rule''), DOE determined that the test procedure did not require amendment at that time, concluding that the test procedure as established in the April 2006 Final Rule was reasonably designed to produce test results that reflect energy efficiency and energy use, as required by 42 U.S.C. 6314(a)(2). 78 FR 23336, 23347–23348. The current test procedures for distribution transformers may be found in 10 CFR 431.193 and 10 CFR part 431, subpart K, appendix A.

On September 22, 2017, DOE published a request for information (''RFI'') to collect data and information to inform its consideration of whether to amend DOE's test procedure for distribution transformers (''September 2017 RFI''). 82 FR 44347. After consideration of comments received in response to the September 2017 RFI, DOE published a notice of proposed rulemaking (''NOPR'') on May 10, 2019 (''May 2019 NOPR''), presenting DOE's proposals to amend the distribution transformer test procedure. 84 FR 20704.

DOE received comments in response to the May 2019 NOPR from the interested parties listed in Table I.1.

TABLE I.1—WRITTEN COMMENTS RECEIVED IN RESPONSE TO MAY 2019 NOPR

Organization(s) *	Reference in this document	Organization type
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Natural Resources Defense Council.	Efficiency Advocates	Efficiency Organizations.
Cargill	Cargill	Insulating Liquid Manufacturer.
Copper Development Association	CDA	Trade Association.
Howard Industries Inc	Howard	Manufacturer.
HVOLT Inc	HVOLT	Industry Consultant.
National Electrical Manufacturers Association	NEMA	Trade Association.
Pacific Gas & Electric Company	PG&E	Electrical Utility.

* This list includes only those commenters that provided comments relevant to the May 2019 NOPR.

[4] DOE generally refers to distribution transformers as covered equipment. However, to the extent that DOE is discussing provisions of Part B of EPCA that are applicable to distribution transformers, ''covered product'' is used.

[5] DOE published a technical correction to the April 2006 Final Rule to correct typographical errors. 71 FR 60662 (Oct. 16, 2006).

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[6]

II. Synopsis of the Final Rule

In this final rule, DOE amends 10 CFR 431.192, 431.193, 431.196, and appendix A as follows:

(1) Explicitly specify that the test procedure is applicable only to distribution transformers that are subject to energy conservation standards,

(2) Include new definitions for ''per-unit load,'' ''terminal'' and ''auxiliary device,'' and updated definitions for ''low-voltage dry-type distribution transformer'' and ''reference temperature,''

(3) Reflect certain revisions from the latest version of the IEEE testing standards on which the DOE test procedure is based,

(4) Incorporate other clarifying revisions based on review of the DOE test procedure,

(5) Specify use of existing test procedure provisions for voluntary (optional) representations at additional per-unit loads (''PULs'') and reference temperatures, and

(6) Centralize the PUL and reference temperature specifications for certification to energy conservation standards and for voluntary representations.

The adopted amendments are summarized in Table II.1 compared to the test procedure provision prior to the amendment, as well as the reason for the adopted change. Table II.2 compares the changes adopted in this final rule to the proposal of the May 2019 NOPR.

TABLE II.1—SUMMARY OF CHANGES IN THE AMENDED TEST PROCEDURE

DOE test procedure prior to amendment	Amended test procedure (adopted by this final rule)	Attribution
Current test procedure does not specify scope	States explicitly that the scope of the test procedure is limited to the scope of equipment subject to the energy conservation standards.	Clarification added by DOE.
PUL is referred to as ''percent load,'' ''percent of nameplate-rated load,'' ''percent of the rated load,'' or ''per unit load level''.	Consolidates all terms to only ''per-unit load''	Improves consistency and readability of test procedure.
Does not define ''Per-unit load,'' ''Terminal'' and ''Auxiliary device,'' which are used in the current test procedure (TP).	Adds new definitions for ''Per-unit load,'' ''Terminal,'' and ''Auxiliary device''.	Reflects industry testing standard definition (terminal) and clarification added by DOE (PUL and auxiliary device).
Includes definition of ''Low-Voltage Dry-Type Distribution Transformer''.	Updates definition of ''Low-Voltage Dry-Type Distribution Transformer''.	Aligns with industry definition.
Test procedure provisions are based on four IEEE testing standards, which contain general requirements and methods for performing tests: C57.12.00–*2000*. C57.12.01–*1998*. C57.12.90–*1999*. C57.12.91–*2001*.	Updates provisions based on the latest version of the four IEEE testing standards: C57.12.00–*2015*. ..... C57.12.01–*2020*. ..... C57.12.90–*2015*. ..... C57.12.91–*2020*.	Reflects industry testing standard updates.
Requires reporting performance at the rated frequency; however, the rated frequency is not explicitly defined.	States explicitly that all testing under the DOE test procedure is to occur only at 60 Hz.	Update to reflect industry testing standards.
Requires determining winding resistance but does not specify whether the polarity of the core magnetization should be kept constant as measurements are made.	Specifies that the polarity of the core magnetization be kept constant during all resistance readings.	Update to reflect industry testing standards.
Requires the measurement of load and no-load loss, without explicitly specifying the connection locations for measurements.	Specifies explicitly that load and no-load loss measurements are required to be taken only at the transformer terminals.	Update to reflect industry testing standards.
Testing with a sinusoidal waveform explicitly specified only for transformers designed for harmonic currents.	Specifies that all transformers must be tested using a sinusoidal waveform (not just those designed for harmonic current).	Update to reflect industry practice.
Energy conservation standards require that efficiency be determined at a single PUL of 50 percent for both liquid-immersed and medium-voltage dry type (MVDT) distribution transformers, and at 35 percent for low-voltage dry-type (LVDT) distribution transformers.	Permits *voluntary* representations of efficiency, load loss and no-load loss at additional PULs and/or reference temperature, using the DOE test procedure. (Does not require certification to DOE of any voluntary representations.)	Response to industry comment.
Specifies PUL and reference temperature specifications for certification to energy conservation standards in multiple locations throughout appendix A.	Centralizes the PUL and reference temperature specifications, both for the certification to energy conservation standards and for use with a voluntary representation.	Improves readability of test procedure.

[6] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for distribution transformers. (Docket No. EERE–2017–BT–STD–0055, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

TABLE II.2—SUMMARY OF CHANGES—FINAL RULE RELATIVE TO MAY 2019 NOPR

DOE test procedure prior to amendment	NOPR proposal	Final rule
Current test procedure does not specify scope	States explicitly that the scope of the test procedure is limited to the scope of equipment subject to the energy conservation standards.	Adopts modification as proposed.
PUL is referred to as ''percent load,'' ''percent of nameplate-rated load,'' ''percent of the rated load,'' or ''per unit load level''.	Consolidates all terms to only ''per-unit load.''	Adopts modification as proposed.
Does not define ''Per-unit load,'' ''Terminal'' and ''Auxiliary device,'' which are used in the current TP.	Adds new definitions for ''Per-unit load,'' ''Terminal,'' and ''Auxiliary device.''.	Adopts modification as proposed.
Aligns definition of ''Low-Voltage Dry-Type Distribution Transformer'' with industry definition.	Proposes updated definition of ''Low-Voltage Dry-Type Distribution Transformer.''.	Slight change from NOPR to align with industry definition.
Test procedure provisions are based on four IEEE testing standards, which contain general requirements and methods for performing tests: C57.12.00–*2000*. C57.12.01–*1998*. C57.12.90–*1999*. C57.12.91–*2001*.	Updates provisions based on the latest version of the four IEEE testing standards: C57.12.00–*2015*. C57.12.01–*2015*. C57.12.90–*2015*. C57.12.91–*2011*.	Adopts modifications as proposed. Note that after NOPR publication, IEEE updated C57.12.91–2011 and C57.12.01–2015 to C57.12.91–2020 and C57.12.01–2020. The relevant provisions of C57.12.91–2020 and C57.12.01–2020 and the other two testing standards are unchanged.
Automatic Recording of Data Not Required	Requires automatic recording of data, as required in IEEE C57.12.90–2015 and IEEE C57.12.91–2011, using a digital data acquisition system. (Appendix A, section 4.4.2(b)).	NOPR proposal not adopted in this final rule.
Requires reporting performance at the rated frequency; however, the rated frequency is not explicitly defined.	States explicitly that all testing under the DOE test procedure is to occur only at 60 Hz for resistance measurement and no-load loss test.	Adopted no-load loss test as proposed. NOPR proposal not adopted for resistance measurements.
Requires determining winding resistance but does not specify whether the polarity of the core magnetization should be kept constant as measurements are made.	Specifies that the polarity of the core magnetization be kept constant during all resistance readings.	Adopts modification as proposed.
Requires the measurement of load and no-load loss, without explicitly specifying the connection locations for measurements.	Specifies explicitly that load and no-load loss measurements are required to be taken only at the transformer terminals.	Adopts modification as proposed.
Testing with a sinusoidal waveform explicitly specified only for transformers designed for harmonic currents.	Specifies that all transformers must be tested using a sinusoidal waveform (not just those designed for harmonic current).	Adopts modification as proposed.
Energy conservation standards require that efficiency be determined at a single PUL of 50 percent for both liquid-immersed and MVDT distribution transformers, and at 35 percent for LVDT distribution transformers.	Permits *voluntary* representations of efficiency, load loss and no-load loss at additional PULs and/or reference temperature, using the DOE test procedure. (Does not require certification to DOE of any voluntary representations.)	Adopts modification as proposed.
Specifies PUL and reference temperature specifications for certification to energy conservation standards in multiple locations throughout appendix A.	Centralizes the PUL and reference temperature specifications, both for the certification to energy conservation standards and for use with a voluntary representation.	No change from NOPR.

DOE has determined that the amendments described in section III and adopted in this document will not alter the measured efficiency of distribution transformers or require retesting or recertification solely as a result of DOE's adoption of the amendments to the test procedure. Additionally, DOE has determined that the amendments will not increase the cost of testing. Discussion of DOE's actions are addressed in detail in section III of this document.

The effective date for the amended test procedure adopted in this final rule is 30 days after publication of this document in the **Federal Register**. Representations of energy use or energy efficiency must be based on testing in accordance with the amended test procedure beginning 180 days after the publication of this final rule.

III. Discussion

A. Scope of Applicability

The applicability of the test procedure is provided in 10 CFR 431.193, which states that ''the test procedures for measuring the energy efficiency of distribution transformers for purposes of EPCA are specified in appendix A to this subpart.'' DOE has established energy conservation standards for low-voltage dry-type (''LVDT'') distribution transformers, liquid-immersed distribution transformers, and medium-voltage dry type (''MVDT'') distribution transformers at 10 CFR 431.196. In the May 2019 NOPR, DOE proposed to state explicitly that the scope of the test procedure is limited to the scope of the distribution transformers that are subject to energy conservation standards. 84 FR 20704, 20706. DOE did not receive any comments regarding this proposal. DOE is modifying text in 10 CFR 431.193 regarding the scope of the test procedure as proposed.

B. Updates to Industry Testing Standards

The current DOE test procedure for distribution transformers is based on provisions from the following industry testing standards (*See* 71 FR 24972, 24982 (April 27, 2006)):

- NEMA TP 2–1998, ''Standard Test Method for Measuring the Energy Consumption of Distribution Transformers'' (NEMA TP 2–1998)
- IEEE C57.12.90–1999, ''IEEE Standard Test Code for Liquid-Immersed Distribution, Power and Regulating Transformers and IEEE Guide for Short Circuit Testing of Distribution and Power Transformers''
- IEEE C57.12.91–2001, ''IEEE Standard Test Code for Dry-Type Distribution and Power Transformers''
- IEEE C57.12.00–2000, ''IEEE Standard General Requirements for Liquid-Immersed Distribution, Power and Regulating Transformers''
- IEEE C57.12.01–1998, ''IEEE Standard General Requirements for Dry-Type Distribution and Power Transformers Including those with Solid Cast and/or Resin Encapsulated Windings''

In addition, the DOE test procedure is also based on provisions in NEMA TP 2–2005,[7] which in turn reference the aforementioned IEEE testing standards.[8] DOE determined that basing the procedure on multiple industry testing standards, as opposed to adopting an industry test procedure (or procedures) without modification, was necessary to provide the detail and accuracy required for the Federal test procedure, with the additional benefit of providing manufacturers the Federal test procedure in a single reference. 71 FR 24972, 24982 (April 27, 2006).

DOE previously sought comment on the benefits and burdens of adopting industry testing standards without modification. 82 FR 44347, 44351 (Sep. 22, 2017). NEMA commented generally that there is benefit but that DOE should limit the reference to the measurement of losses and retain DOE's existing calculation for efficiency. (NEMA, Docket No. EERE–2017–BT–TP–0055–0014 p. 9) DOE stated in the May 2019 NOPR that the current test procedure is already based on industry testing standards and that if DOE were to adopt an industry testing standard without modification, the resulting changes could require manufacturers to retest and recertify, because such an incorporation by reference would require updating a majority of the current test procedure. 84 FR 20704, 20710. For these reasons, DOE did not propose to incorporate industry testing standard into its test procedure for distribution transformers. *Id.*

NEMA further commented that while the existing test procedure is adequate, for high volume units the test procedures found in IEEE C57.12.90–2015 and IEEE C.57.12.91–2011 are less burdensome and recommended that DOE allow them as equivalent alternatives for the purposes of testing and certification. (NEMA, No. 30 at p. 5) As discussed, DOE's test procedure is partially based on the IEEE testing standards, and there are similarities between the DOE test procedure and the IEEE testing standards. There are also minor differences between the DOE test procedure and the IEEE testing standards, such as DOE's requirement to test multiple-voltage-capable distribution transformers in the highest losses configuration (appendix A, sections 4.5.1(b) and 5.0), as discussed in section III.E. Testing according to the IEEE test procedures without modification could result in distribution transformers being tested at different conditions depending on the method used. Therefore, DOE is not permitting use of IEEE testing standards as equivalent alternatives. DOE may consider referencing sections of the IEEE test procedures as equivalent in the future if there is sufficient data and information that doing so would result in equivalent measured efficiency values with the DOE test procedure.

1. Recission of NEMA TP 2

As discussed, EPCA requires that DOE base the test procedure on NEMA TP 2–1998. (42 U.S.C. 6293(b)(10)(A)) Also as discussed, the DOE test procedure is based on (but does not incorporate by reference directly) NEMA TP 2–1998, NEMA TP 2–2005, as well as four IEEE standards that are referenced in NEMA TP 2–2005, *i.e.,* IEEE.C57.12.00, IEEE C57.12.01, IEEE C57.12.90 and IEEE C57.12.91. *See* 71 FR 24972, 24982 (April 27, 2006). As discussed in the following section, updates have been made to the IEEE testing standards.

Since publication of the April 2006 Final Rule, NEMA TP 2–2005 has been rescinded and superseded in industry by the IEEE standards. DOE has evaluated the provisions in the Federal test procedure that are based on NEMA TP 2 and, as discussed in the May 2019 NOPR, has determined that these provisions remain appropriate for testing distribution transformers. DOE did not receive any comments on these provisions in the May 2019 NOPR and therefore maintained them in this final rule.

2. Updates to IEEE Standards

a. Background

As discussed in section III.B, the DOE test procedure mirrors four widely used IEEE testing standards. Since the April 2006 Final Rule, all of the four IEEE standards have been updated.

In the May 2019 NOPR, DOE proposed updating certain Federal test procedure provisions to reflect the following updated versions of the relevant IEEE testing standards: IEEE C57.12.90–2015, IEEE C57.12.91–2011, IEEE C57.12.00–2015, and IEEE C57.12.01–2015. Since publication of the May 2019 NOPR, IEEE issued a further update to standard IEEE C57.12.91 (IEEE C57.12.91–2020) and IEEE C57.12.01–2015 (IEEE C57.12.01–2020). Table III.1 provides a list of old and new versions of each of these IEEE testing standards.

[7] Standard Test Method for Measuring the Energy Consumption of Distribution Transformers, available at: *nema.org/Standards/Pages/Standard-Test-Method-for-Measuring-the-Energy-Consumption-of-Distribution-Transformers.aspx.*

[8] Prior to the April 2006 Final Rule, NEMA provided the Department with its revised test procedure document (*i.e.,* update to NEMA TP 2–1998), TP 2–2005. The Department treated this submission as a comment on DOE's rulemaking to establish a distribution transformer test procedure. 71 FR 24972, 24973. As such, the DOE test procedure incorporated a number of the changes that this revision made to the rule language and addressed the differences between the DOE test procedure and NEMA TP 2–2005. *Id.*

TABLE III.1—IEEE INDUSTRY TESTING STANDARDS VERSIONS AND SUMMARY

IEEE standard	Version on which DOE test procedure prior to amendment is based (year)	Most recent IEEE revision version (year)	Content
C57.12.00	2000	2015	General electrical and mechanical requirements for liquid-immersed distribution transformers.
C57.12.01	1998	2020	General electrical and mechanical requirements for dry-type distribution transformers.
C57.12.90	1999	2015	Methods for performing tests specified in C57.12.00 and others for liquid-immersed distribution transformers.
C57.12.91	2001	2020	Methods for performing tests specified in C57.12.01 and others for dry-type distribution transformers.

b. General Updates

For the May 2019 NOPR, DOE reviewed the then most current editions of the relevant IEEE testing standards to determine whether any of the updates from the previously considered versions warranted proposed amendments to the DOE test procedure. The four IEEE testing standards are not relevant to the DOE test procedure in their entirety, as they include specifications and test methods beyond those required to measure efficiency, such as test methods for polarity, phase-relation, dielectric, and audible sound-level. DOE performed the review as follows:

(1) DOE identified the sections of the IEEE testing standards that form the basis of the DOE test procedure,

(2) DOE compared those sections between the old and the then current versions of the IEEE testing standards, and

(3) DOE initially determined which of the changes were editorial versus which represented potential substantive improvements to the test method.

In IEEE C57.12.90–2015 and IEEE C57.12.91–2011, sections 5, 8, and 9 provide the resistance measurements, the no-load loss test, and the load loss test, respectively, which provide the basis for the DOE test procedure. In general, DOE did not identify major changes in sections 5, 8, and 9 between 1999 and 2015 editions of IEEE C57.12.90–2015, or between the 2001 and 2011 editions of IEEE C57.12.91–2011. Since the May 2019 NOPR, DOE has reviewed the updated IEEE C57.12.91–2020 test procedure and concluded that there were no substantive differences between the relevant provisions in the 2011 and 2020 versions.

The IEEE C57.12.00 and IEEE C57.12.01 testing standards include general electrical and mechanical requirements for the test methods for liquid-immersed and dry-type distribution transformers, in IEEE C57.12.90 and IEEE C57.12.91, respectively. In IEEE C57.12.00 and IEEE C57.12.01, section 9 and section 5, respectively, provide accuracy requirements for conducting the resistance measurements, the no-load loss test, and the load loss test. The primary change DOE identified in the accuracy requirements between the 2000 and 1998 standards and the 2015 standards was a slight relaxation of the temperature system accuracy requirement, from ±1 °C in the older versions to ±1.5 °C for liquid-immersed distribution transformers and ±2 °C for medium-voltage dry-type distribution transformers and low-voltage dry-type distribution transformers. Since the May 2019 NOPR, DOE has reviewed the updated IEEE C57.12.91–2020 test procedure and concluded that there were no substantive differences between the relevant provisions in the 2015 and 2020 versions.

In the May 2019 NOPR, DOE proposed a series of updates based on the then most recent updates to the relevant IEEE testing standards. 84 FR 20704, 20711. DOE stated the proposed updates reflect current industry practice, and as such, would not change current measured values. *Id.* DOE further stated that providing additional specificity consistent with the updates would improve the repeatability of the test procedure. *Id.* DOE requested comment on the proposed changes to reflect the updates to the relevant IEEE testing standards. *Id.*

DOE received comments from Howard, NEMA, CDA, and HVOLT agreeing that the proposed updates are already industry practice and would not change any values or increase testing costs for manufacturers. (Howard, No. 32 at p.1; NEMA, No. 20 at p. 3; CDA, No. 29 at p. 2; HVOLT, No. 27 at p. 91)

Based on its review of the updates to the relevant IEEE testing standards and following consideration of the comments, DOE is adopting the proposed updates and clarifications, with two exceptions, discussed below.

c. Automatic Recording of Data

In the May 2019 NOPR, DOE proposed to require automatic recording of data using a digital data acquisition system at appendix A, section 4.4.2(b), in an attempt to align with industry standards. 84 FR 20704, 20711. NEMA commented that the proposed requirement to automatically record data using a digital data acquisition system is listed in IEEE C57.12.90–2015 and C57.12.91–2020 for making resistance measurements by the voltmeter-ammeter method, and not for the no-load loss measurements as was proposed in the May 2019 NOPR. (NEMA, No. 30 at p. 3) NEMA commented that requiring automatic recording of data using a digital data acquisition system for the no-load losses could require some labs to upgrade test equipment, as not all power analyzers have this capability. *Id.*

DOE acknowledges that IEEE C57.12.90–2015 and C57.12.91–2020 both cite using digital data acquisition systems for making resistance measurements by the voltmeter-ammeter method and not for no-load losses, as was proposed. In an effort to remain aligned with the industry testing standard IEEE C57.12.90–2015 and C57.12.91–2020 no-load loss test, DOE has not adopted the proposal to require automatic recording of data using a digital data acquisition system. DOE is maintaining the current specification in section 4.4.2(b) of appendix A that requires recording data ''as close to simultaneously as possible.''

d. Test Frequency

In the May 2019 TP NOPR, DOE proposed to require testing under the DOE test procedure to occur only at 60 Hz in appendix A, sections 3.1(c) and 4.1, in order to align with the industry testing standard and provide clarity on the frequency of the test current. 84 FR 20704, 20711.

NEMA commented that there was an error in the proposed language of

section 3.1(c) of Appendix A, stating that the proposed regulatory text should read ''Measure resistance with the transformer energized by a DC supply'' rather than with a 60 Hz supply as was proposed in the May 2019 NOPR. (NEMA, No. 30 at p. 5) DOE concurs with NEMA that the 60 Hz supply frequency is not applicable to the resistance measurement section of the test procedure, only to the loss measurement sections. The proposed addition of section 3.1(c) of appendix A, was an error. Resistance measurements are already stated as being a ''direct current resistance'' measurement in appendix A, section 3.1(b). Therefore, DOE is not adopting section 3.1(c) of appendix A as was proposed in the May 2019 NOPR.

The proposed language clarifying the ''Test Frequency'' provision in appendix A, section 4.1, is aligned with the industry standard to test at the ''rated frequency,'' which by the definition of distribution transformer at 10 CFR 431.192 is 60Hz. Therefore, this proposed addition remains appropriate. DOE did not receive any comment in opposition to its proposal to clarify that appendix A, section 4.1, is to be conducted with a 60 Hz frequency current. Therefore, DOE is adopting the change as proposed to section 4.1.

e. Summary of Updates Adopted in This Final Rule

Table III.2 summarizes proposed updates to the relevant IEEE testing standards that are adopted in this final rule. As summarized previously, DOE received comments from industry trade organizations and individual manufacturers indicating that the proposed updates are already industry practice and would not change any values or increase testing costs for manufacturers. (Howard, No. 32 at p. 1; NEMA, No. 30 at p. 3; CDA, No. 29 at p. 2; HVOLT, No. 27 at p. 91) As such, DOE has determined that the following amendments reflect current industry practice and provide additional specificity that will improve the repeatability of the test procedure.

TABLE III.2—IEEE-BASED UPDATES ADOPTED IN THIS FINAL RULE

Topic	Updates based on IEEE standards
Consolidating the Terms ''Oil,'' ''Transformer Liquid,'' and ''Insulating Liquid''.	Replace the term ''oil'' and ''transformer liquid'' with ''insulating liquid'' in Appendix A to reflect that the term is inclusive of all insulating liquids, including those identified in IEEE C57.12.90–2015.
Stability Requirement for Resistance Measurement	Specify, consistent with IEEE C57.12.90–2015, that resistance measurements are considered stable if the top insulating liquid temperature does not vary more than 2 °C in a one-hour period. (Appendix A, section 3.2.1.2(b))
Temperature Test System Accuracy	Relax the temperature test system accuracy requirements to be within ±1.5 °C for liquid-immersed distribution transformers, and ±2.0 °C for MVDT and LVDT distribution transformers, as specified in IEEE C57.12.00–2015 and IEEE C57.12.01–2020, respectively. (Appendix A, section 2.0)
Limits for Voltmeter-Ammeter Method	Permit use of the voltmeter-ammeter method when the rated current of the winding is less than or equal to 1 A. Neither IEEE C57.12.90–2015 nor IEEE C57.12.91–2020 restrict usage of this method to certain current ranges. (Appendix A, section 3.3.2(a))
Number of Readings Required for Resistance Measurement	Include the requirement that a minimum of four readings for current and voltage must be used for each resistance measurement, as specified in IEEE C57.12.90–2015. (Appendix A, section 3.3.2(b))
Connection Locations for Resistance Measurements	Add resistance measurement specifications for single-phase windings, wye windings and delta windings, as provided in section 5.4.1 and 5.4.2 of IEEE C57.12.90–2015, and sections 5.6.1 through 5.6.3 of IEEE C57.12.91–2020. (Appendix A, section 3.4.1(g)–(i))
Test Frequency	Require that all testing under the DOE test procedure is to occur only at 60 Hz. (Appendix A, section 4.1)
Polarity of Core Magnetization	Require that the polarity of the core magnetization be kept constant during all resistance readings. (Appendix A, section 3.4.1(f))

C. Definitions

Definitions pertaining to distribution transformers are provided at 10 CFR 431.192. The following sections discuss new and amended definitions established in this final rule.

1. Rectifier Transformers and Drive Transformers

DOE defines rectifier transformer as a transformer that operates at the fundamental frequency of an alternating-current system and that is designed to have one or more output windings connected to a rectifier.[9] 10 CFR 431.192.

DOE defines drive (isolation) transformer as a transformer that (1) isolates an electric motor from the line; (2) accommodates the added loads of drive-created harmonics; and (3) is designed to withstand the mechanical stresses resulting from an alternating current adjustable frequency motor drive or a direct current motor drive. 10 CFR 431.192. The parenthetical inclusion of the term ''isolation'' indicates that the defined term includes only isolation transformers and not other transformers that may be described as ''drive transformers'' in the industry but which do not satisfy all three criteria specified in the definition of drive (isolation) transformer.

Both rectifier transformers and drive transformers are among the exclusions to the term ''distribution transformer'' at 10 CFR 431.192 and 42 U.S.C. 6293(35)(B)(ii). Because both rectifier transformers and drive transformers are not classified as distribution transformers, they are not subject to the energy conservation standards at 10 CFR 431.196.

[9] A rectifier is an electrical device for converting alternating current to direct current.

Although rectifier transformers and drive transformers are defined differently, they typically share features. As discussed in the May 2019 NOPR, both are isolation transformers (*i.e.,* not autotransformers); both are typically exposed to (and must tolerate) significant harmonic content created from the drive or power supply; and both are likely to include design features enabling them to bear mechanical stress resulting from rapid current changes that may arise from operation of motors and other industrial equipment. 84 FR 207054, 20708.

In response to the September 2017 RFI, Babanna Suresh (''Suresh'') commented that it could be argued that most distribution-type transformers meet the present definition of the terms ''rectifier transformer'' or ''drive transformer'' and suggested that those terms be removed from the list of exclusions to the term ''distribution transformer.'' (Suresh, Docket No. EERE–2017–BT–TP–0055, No. 9 at p. 1) Suresh further suggested that the definition of ''rectifier transformer'' be limited to transformers that supply loads that are composed of at least 75 percent power electronics. *Id.*

In the May 2019 NOPR, DOE stated that the definition of ''rectifier transformer'' is not intended to cover a large number of transformers intended for general power service; and that linking the definition to a percentage of supply load from power electronics would be insufficient to designate a distribution transformer because it may not be possible for a manufacturer to know in advance what fraction of a distribution transformer's load will include power electronics. 84 FR 207054, 20708. Based on further review of industry testing standards and available manufacturer literature, DOE further stated that it was unable to identify physical attributes that could be used to reliably identify rectifier transformers. *Id.*

DOE requested comment on whether the current definitions of rectifier transformer and drive transformer are sufficiently specific; the level of technical similarity between the two types of transformers; and whether any physical or electrical properties could be used to reliably identify rectifier transformers.

DOE received written comments from CDA and HVOLT stating that defining rectifier transformers as having multiple output windings could be a reasonable addition. (CDA, No. 29 at p.1; HVOLT No. 27 at p. 89) DOE notes that the current definition already specifies that rectifier transformers can have ''one or more'' output windings. 10 CFR 431.192.

CDA and HVOLT also stated that small drive transformers could meet energy conservations standards, but that larger drive transformers are more complicated and would have a more difficult time meeting standards. (CDA, No. 29 at p.1–2; HVOLT No. 27 at p. 89) While smaller drive transformers may be able to meet energy conservation standards, the statutory definition for distribution transformer excludes any transformer that is designed to be used in a special purpose applications and is unlikely to be used in general purpose applications, and specifies drive transformers as such an example. 42 U.S.C. 6291(35)(b)(ii).

NEMA commented that the current definition for both rectifier transformer and drive transformer are sufficient. (NEMA, No. 30 at p.2).

Having considered these comments from interested parties, DOE remains unaware of any industry definition or physical features that would better define either rectifier transformers or drive transformers.

Therefore, DOE makes no changes to the definitions of ''rectifier transformer'' and ''drive transformer'' in this final rule. Both varieties of equipment remain excluded from energy conservation standards and are therefore excluded from the scope of the test procedure (in accordance with the amendment discussed in section III.A of this final rule specifying that the scope of the test procedure is limited to the scope of the distribution transformers that are subject to energy conservation standards). However, as stated in the April 2006 Final Rule, DOE narrowly construes the exclusions from the definition of ''distribution transformer.'' DOE will also take appropriate steps, including enforcement action if necessary, if any manufacturer or other party erroneously invokes one of the exclusions as a basis for marketing a transformer that is a ''distribution transformer,'' but does not meet DOE standards. Moreover, to the extent transformers that do fall within the exclusions begin to be marketed for standard distribution applications, or find widespread use in such applications, DOE will examine whether re-defining the relevant exclusions is warranted. *See* 71 FR 24979.

2. New Definitions

In the May 2019 NOPR, DOE proposed and sought comment on definitions for the terms ''per-unit load,'' ''terminal,'' and ''auxiliary device.'' 84 FR 20704, 20708–20709. These terms are referenced in the DOE test procedure but are not currently defined in the regulatory text. The following sections discuss comments received regarding each of these terms and the definitions established in this final rule.

a. Per-Unit Load

Distribution transformers are regularly operated at capacities other than the capacity listed on a distribution transformer's nameplate (*i.e.,* the rated load). In general, distribution transformers are loaded substantially below their rated load. DOE's current test procedure and energy conservation standards for distribution transformers use various terms to refer to operating or testing a distribution transformer at a capacity other than the rated load, including ''percent load,'' ''percent of nameplate-rated load,'' ''percent of the rated load,'' or ''per unit load level.'' 10 CFR 431.192, 10 CFR 431.196, and appendix A. DOE proposed to consolidate the usage of these various terms into a single term, ''per-unit load'' (''PUL'') in all instances identified. 84 FR 20704, 20709. DOE also proposed to define ''per-unit load'' to mean the fraction of rated load. *Id.*

Howard, CDA, and HVOLT supported the proposed term per-unit load. (Howard, No. 32 at p.1; CDA, No. 29 at p.2; HVOLT, No. 27 at p. 89) DOE did not receive any comments against its proposed definition for per-unit load or its proposal to consolidate all references to partial loading into a single per-unit load term. In order to improve the readability of the test procedure, DOE is adopting the proposed definition for per-unit load at 10 CFR 431.192. DOE is also consolidating all references to partial load operation in 10 CFR 431.192, 10 CFR 431.196, and appendix A to the defined ''per-unit load'' term.

b. Terminal

In the May 2019 NOPR, DOE proposed to clarify that load and no-load loss measurements should be taken only at the distribution transformer terminals, as discussed in section III.F.3. As such, DOE proposed to define ''terminal'' to mean ''a conducting element of a distribution transformer providing electrical connection to an external conductor that is not part of the transformer.'' 84 FR 20704, 20709. This definition is based on, but not identical to, the definition for ''terminal'' in IEEE C57.12.80–2010,[10] ''IEEE Standard

[10] IEEE C57.12.80–2010 is currently listed as ''inactive-reserved'' which means that this standard is ''. . . removed from active status through an administrative process for standards that have not undergone a revision process within 10 years.'' (*See*

Continued

Terminology for Power and Distribution Transformers.'' IEEE C57.12.80–2010 defines terminal as ''(A) A conducting element of an equipment or a circuit intended for connection to an external conductor. (B) A device attached to a conductor to facilitate connection with another conductor.''

Howard commented in agreement with the proposed definition. (Howard, No. 32 at p.1) NEMA, CDA and HVOLT preferred DOE to adopt the IEEE C57.12.80–2010 definition of ''terminal'' directly. (NEMA, No. 30 at p. 2; CDA, No. 29 at p. 2; HVOLT, No. 27 at p. 90).

DOE has reviewed the IEEE definition and while part ''(A)'' is similar to the definition proposed in the May 2019 NOPR, part ''(B)'' does not clarify that the terminal needs to be external. While adoption of industry-developed language would promote further consistency between the DOE test procedure and the industry testing standards, DOE is concerned that the IEEE definition could be understood to exclude busbar losses in testing of distribution transformers because part (B) of the IEEE definition does not specify that a terminal is for connection to an external conductor. A manufacturer could interpret terminal to be any conducting element within the distribution transformer, including a conducting element between the busbar and the windings. As a result, DOE is adopting the definition of ''terminal'' proposed in the May 2019 NOPR at 10 CFR 431.192 as ''a conducting element of a distribution transformer providing electrical connection to an external conductor that is not part of the transformer.''

c. Auxiliary Device

Section 4.5.3.1.2 of appendix A specifies that during testing, ''measured losses attributable to auxiliary devices (*e.g.,* circuit breakers, fuses, switches) installed in the transformer, if any, that are not part of the winding and core assembly, may be excluded from load losses measured during testing.'' DOE has received inquiries from manufacturers regarding whether certain other internal components of distribution transformers are required by the DOE test procedure to be included in the loss calculation, or whether they are considered an auxiliary device. In the May 2019 NOPR, DOE proposed to address the prior industry questions and establish a definition of the term ''auxiliary device'' based on a specific list of all components and/or component functions that would be considered auxiliary devices and, therefore, be optionally excluded from measurement of load loss during testing. 84 FR 20704, 20709.

The auxiliary device examples listed at section 4.5.3.1.2 of appendix A (circuit breakers, fuses, and switches) all provide protective function, but do not directly aid the transformer's core function of supplying electrical power. Additionally, the term ''device'' indicates a localized nature, rather than a diffuse system or property of the transformer.

DOE proposed to define ''auxiliary device'' to mean ''a localized component of a distribution transformer that is a circuit breaker, switch, fuse, or surge/lightning arrester.'' DOE requested comment on the proposed definition, if any components needed to be added or removed from the listed auxiliary devices, and whether it is appropriate to include functional component designations as part of a definition. *Id.*

CDA and HVOLT stated that the proposed definition was adequate. (CDA, No. 29 at p.2; HVOLT, No. 27 at p. 90) Howard commented that the four components listed are sufficient and a functional designation is not needed. (Howard, No. 32 at p.1) NEMA commented that the current definitions are adequate and that it is not necessary to define auxiliary device. (NEMA, No. 39 at p.2) NEMA did not specify what, if any, aspects of the proposed definition would be inadequate. Moreover, prior inquiries from industry indicate that the definition of ''auxiliary device'' would benefit from further detail. DOE did not receive any comment suggesting that the proposed definition is inadequate. DOE is adopting the definition of auxiliary device in this final rule as proposed.

3. Updated Definitions

a. Low-Voltage Dry-Type Distribution Transformer

EPCA defines a ''low-voltage dry-type distribution transformer'' as ''a distribution transformer that—(1) Has an input voltage of 600 volts or less; (2) is air-cooled; and (3) does not use oil as a coolant.'' 42 U.S.C. 6291(38).

In the May 2019 NOPR, DOE proposed to update the definition for ''low-voltage dry-type distribution transformer'' by replacing the term ''oil'' with ''insulating liquid'' within the definition, in conjunction with DOE's proposal to consolidate multiple terms to ''insulating liquid,'' as described in section III.B.2. 84 FR 20704, 20709. DOE proposed this update to reflect that the term is inclusive of all insulating liquids, including those identified in IEEE C57.12.90–2015. *Id.*

Howard, CDA, and HVOLT generally supported using the broader term ''insulating liquid'' rather than ''oil.'' (Howard, No. 32 at p. 1; CDA, No. 29 at p. 2; HVOLT, No. 27 at p.91) NEMA recommended harmonizing the definition with the definition provided in IEEE C57.12.80–2010. (NEMA, No. 30 at p. 3) IEEE defines a ''low-voltage dry-type distribution transformer'' to mean ''a distribution transformer that—(1) Has an input voltage of 600 volts or less; (2) Has the core and coil assembly immersed in a gaseous or dry-compound insulating medium.''

Of the three components of EPCA's definition of ''low-voltage dry-type distribution transformer'', the first component (''Has an input voltage of 600 volts or less'') was not proposed for revision by either the May 2019 NOPR or by commenters. 42 U.S.C. 6291(38). This first component of the definition is left unchanged by this final rule.

Whereas the first component of the definition addresses the ''low-voltage'' portion of term ''low-voltage dry-type distribution transformer'', the second and third components (''is air-cooled''; ''does not use oil as a coolant'') combine to describe the manner in which LVDTs dissipate heat and collectively address the ''dry-type'' portion of the term. The comment from NEMA (suggesting that DOE amend the definition to reference the core and coil assembly being ''immersed in a gaseous or dry-compound insulating medium'') indicates that industry generally considers the descriptors ''air cooled; does not use oil as a coolant'' to be synonymous with ''immersed in a gaseous or dry-compound insulating medium.'' The revision suggested by NEMA would also be consistent with DOE's terminology for addressing ''dry type'' in the definition of ''medium-voltage dry-type distribution transformer'', which DOE defines as a distribution transformer in which the core and coil assembly is immersed in a gaseous or dry-compound insulating medium, and which has a rated primary voltage between 601 V and 34.5 kV. 10 CFR 431.192.

After further consideration of the May 2019 NOPR proposal, and consideration of comments from interested parties in response to that proposal, this final rule revises the definition of ''low-voltage dry-type distribution transformer'' to mean ''a distribution transformer that has an input voltage of 600 volts or less and has the core and coil assembly immersed in a gaseous or dry-

www.standard.iee.org). Given that the standard has not been superseded and is not listed as inactive-withdrawn, DOE is continuing to consider it the current industry standard on standard terminology for power and distribution transformers.

compound insulating medium.'' This revised wording harmonizes with the industry definition and implements consistent terminology across both varieties of dry-type distribution transformers (*i.e.,* low-voltage and medium-voltage).

b. Reference Temperature

The reference temperature is the temperature at which the transformer losses must be determined, and to which such losses must be corrected if testing is performed at a different temperature. As currently defined at 10 CFR 431.192, ''reference temperature'' means 20 °C for no-load loss, 55 °C for load loss of liquid-immersed distribution transformers at 50 percent load, and 75 °C for load loss of both low-voltage and medium-voltage dry-type distribution transformers, at 35 percent load and 50 percent load, respectively.

In the May 2019 NOPR, DOE proposed to update the definition for ''reference temperature'' by removing references to the numerical temperature values required for certification with energy conservation standards. 84 FR 20704, 20709. DOE proposed to retain the conceptual definition of reference temperature and to include in appendix A the numerical temperature values for certification with energy conservation standards. The updated definition would allow use of the term reference temperature outside the context of conditions required for certification with energy conservation standards (*i.e.,* voluntary representations at additional temperature values, as described in section III.D.2.b). DOE proposed ''reference temperature'' to mean the temperature at which the transformer losses are determined, and to which such losses must be corrected if testing is performed at a different temperature.

Howard and NEMA both supported the updated definition. (Howard, No. 32 at p. 1; NEMA, No. 30 at p. 3).

CDA and HVOLT commented that the reference temperature for ambient has been used throughout the industry as 20 °C and that letting that number float to other reference temperatures would be confusing to industry. (CDA, No. 29 at p. 2; HVOLT, No. 27 at p. 91).

The reference temperature in the test procedure does not necessarily refer to the ambient temperature, because testing can be performed at a different temperature, with the results corrected to reflect testing at the defined reference temperature. DOE did not propose changes to any of these values for the purpose of certification with energy conservation standards.

The updated definition does not specify particular temperature values in order to accommodate the use of the term in a context other than only the conditions required for certification and compliance, *i.e.,* voluntary representations of efficiency at temperatures or PULs different from those specified in appendix A. For example, a manufacturer voluntarily representing efficiency at 100 percent PUL would correct to a reference temperature that is reflective of the distribution transformer temperature rise at 100 percent PUL.

DOE is adopting the updated definition of ''reference temperature'' in 10 CFR 431.192 as proposed.

D. Per-Unit Load Testing Requirements

The efficiency of distribution transformers varies depending on the PUL at which the distribution transformer is operated. DOE's energy conservation standards for distribution transformers at 10 CFR 431.196 prescribe the PUL at which the efficiency of the distribution transformer must be determined and certified to DOE (*i.e.,* the ''standard PUL''). The standard PUL is intended to represent the typical PUL experienced by in-service distribution transformers over their lifetime. For liquid-immersed distribution transformers and medium-voltage dry-type distribution transformers, the equipment efficiency is certified at a standard PUL of 50 percent. For low-voltage dry-type distribution transformers, the efficiency is certified at a standard PUL of 35 percent. These values were adopted in the April 2006 Final Rule from NEMA TP 2–1998. 71 FR 24972.

As described previously, appendix A does not require testing of the distribution transformer at the standard PUL; rather, the standard PUL is required only for certification of efficiency. Testing can be performed at any PUL, with the results mathematically adjusted to reflect the applicable standard PUL. Section 5.1 of appendix A provides equations to calculate the efficiency of a distribution transformer at any PUL based on the testing of the distribution transformer at a single PUL. Current industry practice is to test at 100 percent PUL and mathematically determine the efficiency at the applicable standard PUL. (NEMA, No. 30 at p. 4).

The efficiency of distribution transformers over the duration of its lifetime and across all installations cannot be fully represented by a single PUL. A given transformer may be highly loaded or lightly loaded depending on its application or variation in electrical demand throughout the day. DOE has previously acknowledged that distribution transformers may experience a range of loading levels when installed in the field. 78 FR 23336, 23350 (April 18, 2013).

DOE previously acknowledged that the majority of stakeholders, including manufacturers and utilities, support retention of the current testing requirements; and DOE determined that its existing test procedure provides results that are representative of the performance of distribution transformers in normal use. *Id.* DOE further determined that potential improvements in testing precision that might result from testing at multiple PULs would be outweighed by the complexity and the burden of requiring testing at different loadings depending on each individual transformer's characteristics. *Id.*

In the May 2019 NOPR, DOE stated that it had considered (1) revising the single standard PUL [11] to a multiple-PUL weighted-average efficiency metric, (2) revising the single standard PUL to an alternative single test PUL metric that better represents in-service PUL, or (3) maintaining the current single test PUL specifications. 84 FR 20704, 20714. DOE tentatively determined that the range of in-service PUL is diverse, and that the available information describing in-service PUL is inconclusive. *Id.* DOE was unable to show that any alternative standard PUL(s) would be more representative than the current standard PUL and therefore did not propose an amendment of the standard PULs. *Id.* DOE proposed, however, to allow for voluntary representations to be made at PULs other than the standard PUL. *Id.*

The following sections summarize comments received on each of these considerations, as well as DOE's responses and conclusions.

1. Multiple-PUL Weighted-Average Efficiency Metric

In the past, DOE has considered a multiple-PUL efficiency metric in contemplating whether a weighted-average efficiency metric composed of efficiency at more than one PUL may better reflect how distribution transformers operate in service. 84 FR 20704, 20713. In the May 2019 NOPR, DOE expressed concern that a multi-

[11] In the May 2019 NOPR, DOE used the term ''test PUL'' to refer to ''standard PUL'' as used in this final rule. The term ''standard PUL'' better reflects that this is referring to the PUL at which the energy efficiency must be determined for the purpose of complying with the energy conservation standards at 10 CFR 431.196. As described previously in this document, testing can be performed at any PUL, with the results corrected to the standard PUL.

PUL metric could increase burden on manufacturers and create challenges in consumer education without being more representative of in-service PULs than the current metric. *Id.*

The Efficiency Advocates suggested that DOE request transformer loading data from IEEE's Transformer Committee to analyze the empirical data describing PUL variation. (Efficiency Advocates, No. 34 at p. 2) The Efficiency Advocates, asserted that the IEEE data shows a wide variation in PUL and that DOE should consider a weighted average PUL efficiency metric in the DOE test procedure. (Efficiency Advocates, No. 34 at p. 2).

DOE has considered a metric based on a weighted average of a transformer's efficiency at multiple different PULs. Different weighting schemes are possible. For example, the measured efficiencies could be weighted by the fraction of operating hours expected at each PUL over the lifecycle of a distribution transformer.

Generally, distribution transformer losses are presented within the industry as consisting of no-load losses, which are approximately constant with PUL, and load losses, which scale nearly quadratically with PUL. Under that set of mathematical assumptions, any particular multi-PUL metric [12] could alternatively be represented by a single-PUL metric that would yield the same efficiency value. In other words, any multi-PUL metric would be replaceable by a certain single-PUL metric. Given this, DOE finds no advantage in adopting a multi-PUL metric for distribution transformers. A multi-PUL metric would represent a slightly more complex way of arriving at the same result that could be derived from a carefully chosen single-PUL metric. As a result, DOE is not adopting a multi-PUL metric for distribution transformers in this final rule.

2. Single-PUL Efficiency Metric

As stated previously, DOE requires distribution transformers' efficiency to be certified at a standard PUL of 50 percent for liquid-immersed distribution transformers and medium-voltage dry-type distribution transformers and 35 percent for low-voltage dry-type distribution transformers. 10 CFR 431.196.

In the May 2019 NOPR, DOE stated that it had considered revising the single standard PUL to an alternative single test PUL that better represents in-service PUL. 84 FR 20704, 20714. DOE tentatively determined that the range of in-service PUL values is diverse, and that the available information describing in-service PUL is inconclusive. *Id.* DOE was unable to conclude that any alternative standard PUL(s) would be more representative than the current standard PUL and, therefore, did not propose to amendment the standard PULs. *Id.*

In response to the May 2019 NOPR, DOE received comments arguing both for and against revising the single-PUL metric; these are discussed in detail in sections III.D.2.a and III.D.2.b. These comments comport with the idea that distribution transformers' in-service PULs reflect diverse operating conditions. After considering the comments brought forward by stakeholders and discussed in sections III.D.2.a and III.D.2.b. DOE has concluded that revising the PUL is not justified at this time for two reasons.

First, there is significant long-term uncertainty regarding what standard PUL would correspond to a representative average use cycle for a distribution transformer given their long lifetimes.[13] The publicly available data effectively amounts to a single year from a few distribution transformer customers. Given the uncertainty associated with future distribution transformer loading, DOE is unable to conclude with certainty that a given alternative single-PUL efficiency metric is more representative than the current standard PUL.

Second, given the uncertainty of future loading distributions, there may be greater risk in selecting too low a standard PUL than too high a standard PUL for two reasons. First, the quadratic nature of load loss means that absolute power consumption grows more quickly on the high side of the standard PUL than on the low side. Second, divergence of the costs associated with different categories of loss means that there is greater risk associated with selecting too low a standard PUL than too high.

Accordingly, in this final rule, DOE is maintaining the current standard PUL specifications. DOE is centralizing the PUL specifications in appendix A, as discussed in section III.F.1.

DOE considered several factors in determining not to revise the current standard PUL requirements in this final rule. In section III.D.2.a, DOE reviews publicly available in-service PUL data. In sections III.D.2.b and III.D.2.c, DOE considers uncertainty in estimates of future load growth, its effects on distribution transformers' in-service PULs, and the respective risks associated with both under- and overestimating actual future in-service PULs.[14]

a. Publicly Available Transformer Load Data

In response to the May 2019 NOPR, the Efficiency Advocates suggested that DOE use IEEE's Advanced Meter Information (''AMI'') data to inform the PUL rulemaking. (Efficiency Advocates, No. 34 at p. 1) Citing IEEE's Distribution Transformer Subcommittee Task Force's (''*IEEE–TF*'') estimates of average in-service PUL for medium-voltage, liquid-filled transformers, the Efficiency Advocates suggest in-service PULs are significantly lower than the current standard PULs. (Efficiency Advocates, No. 34 at p. 2) The Efficiency Advocates recommend, if DOE does not base its analysis on AMI data, that DOE use PUL values of 35 percent for liquid-immersed transformers, 25 percent for low-voltage dry-type distribution transformers, and 38 percent for medium-voltage dry-type distribution transformers. (Efficiency Advocates, No. 34, at pp. 2–3).

Cargill commented that the *IEEE–TF* data suggests average annual loading is less than 30 percent of the ''Peak Annual Load''. (Cargill, No. 28 at p. 1) Cargill stated that even in the most conservative case of peak load equaling nameplate load, the resulting average PUL would be less than 30 percent. (Cargill No. 28 at p. 1) NEMA commented that it is not aware of any changes in the field that would justify modifying the current PUL levels. (NEMA, No. 30 at p. 4).

DOE examined the data made available through *IEEE–TF*.[15] All of the data available through the *IEEE–TF* is for liquid-immersed distribution transformers; DOE did not separately receive updated loading data for LVDTs or MVDTs.

DOE has identified several limitations and questions regarding the data made available through the *IEEE–TF.* First and foremost, none of the datasets of AMI data referred to by the Efficiency Advocates are measured transformer loads, rather they are samples of customer load connected to specific transformers. Additionally, each dataset

[12] Specified as a set of any number of pairs of PUL values and weighting coefficient at that PUL.

[13] DOE determined in the April 2013 ECS Final Rule as having an average lifespan of 32 years, and in many cases they may have an in-service lifetime that is significantly longer. 78 FR 23336, 23377.

[14] *See: Section 2.3 of Chapter 2. Analytical Framework, Comments from Interested Parties, and DOE Responses* of the Prelim Technical Support Document (TSD) at Docket No. EERE–2019–BT–STD–0018–0022.

[15] *See: grouper.ieee.org/groups/transformers/subcommittees/distr/EnergyEfficiency/F20-DistrTransfLoading-Mulkey.pdf.*

presented during the *IEEE–TF* is a sample of customers' AMI data (*i.e.,* not a complete population of distribution transformer load data), and each carries questions regarding the sampling methodology, representativeness, and completeness. DOE does not know what criteria were used to select the sample from each existing population of utility customers. Further, each data set was also incomplete in terms of missing meter readings, non-sequential metering periods, or missing unmetered loads (for example, exterior building lighting, utility owned equipment, and street lighting are usually on separate unmetered tariffs [16]). These unmetered loads, on separate unmetered tariffs, would not be accounted for in the AMI data, and would produce the effect of underestimating in-service PUL for a given transformer.

DOE examined the largest individual sample of data, from Dominion Energy, Inc., which consisted of a year of hourly and sub-hourly readings for roughly 60,000 AMI meters connected to distribution transformers aggregated into zip codes for parts of Virginia and North Carolina.[17] After removing data from AMI meters that were incomplete, or that had the quality issues highlighted in the presentation to the *IEEE–TF* (loads with peak-loads that were several times higher than the connected transformers capacity), DOE found that the average root mean square (RMS) load, as a function of transformer nameplate capacity, over the year in question (2018) was substantially higher than the 10 percent mode value presented to the *IEEE–TF.* DOE found that average RMS in-service PUL for the transformers subject to the DOE test procedure and energy conservation standards was 27.8 percent.[18]

After reviewing the *IEEE–TF* AMI data, DOE agrees with the Efficiency Advocates and Cargill that the current data indicates that the average, current, in-service, liquid-immersed distribution transformer loading is lower than the standard PUL. However, the data also indicates that distribution transformers operate over a diverse range of operating conditions. The data shows that a single customer does not operate a distribution transformer at a single constant PUL. Further, a given distribution transformer model may be used at different PULs by different customers. The realities of the typical range of operations, and issues of data quality and sample completeness raise uncertainties regarding the representativeness of the average PUL values presented by the *IEEE–TF.*

DOE also notes that while the *IEEE–TF* AMI data provides valuable insight into the in-service PUL of liquid-immersed distribution transformers, no equivalent, publicly available data has been presented for medium-voltage and low-voltage dry-type distribution transformers.

Another complicating factor in the representativeness of the currently available data is that the *IEEE–TF* AMI data only covers a single year of distribution transformer lifespans. Distribution transformers have lifespans of several decades and as such, DOE needs to consider not only the diversity of operating conditions that distribution transformer currently experience but the entire range of operating conditions a distribution transformer would experience in its lifespan. Additionally, most of the available data are from similar geographies, on the Atlantic coast, which would experience similar climatic sensitivities, which is not representative of the Nation as a whole. Stakeholders identified several possible factors that could significantly impact distribution transformer loading in the short to medium term, as discussed in section III.D.2.b.

b. Load Growth Uncertainties

DOE received several comments from stakeholders in response to the May 2019 NOPR on the topic of future load growth on distribution transformers. Cargill supported maintaining the current standard PUL, asserting that as future transformer loads increase, increased transformer efficiency could be realized due to conventional core steel having a peak efficiency between 45 and 55 percent PUL. (Cargill, No. 28 at p. 1) Cargill also suggested that utilities are increasingly considering overloading transformers during peak demand with the objective of replacing larger mineral-oil-filled transformers with smaller, cheaper transformers. Such an approach, Cargill asserts, could increase average loading to 50 percent and support retaining the current standard PULs. (Cargill, No. 28 at p. 2) The Efficiency Advocates commented that increased adoption of photovoltaic generation (''PV'') will depress peak demand, as it has done in California. The Efficiency Advocates also commented that increasing adoption of electric vehicles (''EVs'') is unlikely to contribute to peak demand and load growth because it is in utilities' interest to encourage off-peak charging. (Efficiency Advocates, No. 34 at p. 3) Further, the Efficiency Advocates recommended against DOE's continued use of a 1 percent average annual increase, claiming that based on past experience and future projections, load growth of this magnitude is unlikely. (Efficiency Advocates, No. 34 at pp. 4) Finally, the Efficiency Advocates asserted that increases in demand due to population growth will be met with the installation of new transformers, rather than increasing loads on existing transformers. (Efficiency Advocates, No. 34 at p. 2–3).

HVOLT and CDA commented that standard PUL changes are not needed right now, but that EV charging in the future may increase loading. (CDA, No. 29 at p. 89; HVOLT, No. 27 at p. 94).

Load growth has always been, and continues to be, difficult to predict. Stakeholders disagreed as to what future distribution transformer loading would be expected. While *IEEE–TF* data suggests that the current in-service PUL is lower than the standard PUL, the extent to which distribution transformer load will change over time is unclear. Distribution transformers were evaluated in the April 2013 ECS Final Rule as having an average lifespan of 32 years, and in many cases they may have an in-service lifetime that is significantly longer. 78 FR 23336, 23377. The long lifetime of distribution transformers means that many will operate through multiple economic, social, or climate-driven events that could affect the average in-service PUL on individual transformers.

In response to Cargill, while many conventional core steel transformers have a peak efficiency between 45 and 55 percent, this is not generally the case across the entire market and may in part be driven by the 50 percent standard PUL specified in the DOE test procedure. Given an alternative standard PUL, conventional core steel transformers could be designed with peak efficiencies at other values. Further, while some utilities may be considering overloading transformers as standard operating practice and could therefore replace larger distribution transformers with smaller distribution transformers, thereby increasing the in-service PUL of these distribution transformers, DOE does not have any data to substantiate Cargill's claim that this practice is actually occurring or is expected to occur.

In response to the Efficiency Advocates, DOE generally agrees that PV generation as a resource at the level of the transmission grid can both reduce

[16] J. Triplett, S. Rinell and J. Foote, ''*Evaluating distribution system losses using data from deployed AMI and GIS systems,*'' 2010 IEEE Rural Electric Power Conference (REPC), 2010, pp. C1–8, doi: 10.1109/REPCON.2010.5476204.

[17] Zip codes were used to aggregate customer AMI data to anonymize the data.

[18] *See:* Chapter 7. Energy Use Analysis of the Prelim TSD at Docket No. EERE–2019–BT–STD–0018–0022.

the overall generation required to serve a population and have potential impacts of reducing peak-demand in areas where there is enough solar resource to do so. However, when considered at the level of the load(s) being served by individual distribution transformers, PV generation (or other demand-side generation) will generally reduce the load on the transformer only by the quantity of energy consumed on the secondary-service side, (*i.e.,* the customer connected side), of the transformer. Unless the PV generation is not grid-tied, any surplus energy being transformed from secondary-service voltages to primary-service voltages and fed back into the grid for distribution would contribute to the average load of the transformer. Depending on the quantity of surplus energy being fed back into the grid, PV generation could have the effect of either decreasing or increasing the average PUL on an individual distribution transformer. Further, if surplus energy is fed back into the grid during peak times, it could have the impact of increasing both peak load and average load. A recent study by National Renewable Energy Laboratory (''NREL'') and Los Angeles Department of Water and Power (''LADWP''), *Los Angeles 100% Renewable Energy Study (''LA100''),* researching the needs to serve the greater city of Los Angeles with 100 percent renewable energy, estimated that 80 percent of existing distribution feeders would need to be upgraded due to occurrences of one or more overloading violations with the connected transformers.[19] Integrating PV or other distributed-generation in a dispatchable manner is a technically complex task, and at the transmission level can reduce overall electricity demands; however there is also the potential that loads may rise on some distribution circuits (and connected distribution transformers) to meet these transmission reductions.

The Efficiency Advocates' claim that EV impacts on peak electricity demand and transformer loads may be small, given the assertion that it is in the electric utility's interest to promote off-peak charging, is incomplete. The Efficiency Advocates cited an article in support of their assertion that ''at a macro scale, EVs appear to pose only a modest burden on the electric grid''.[20] However, this position oversimplifies the relationship between connected loads, the distribution grid, and transmission grid. The article cited by the Energy Advocates cautions that at a micro scale, EVs represent a significant addition to traditional household loads; and further states that the addition of a level 2 residential EV charging station contributes a load similar to an additional house on the grid.[21]

While there are likely benefits to promoting off-peak charging, or other types of structured charging schemes, EV charging is difficult to predict and model because EV adoption is still in the early stages. While some utility programs have been successful at shifting EV loads from peak to off-peak times using time-of-use rates or specific EV charging electricity tariffs, offsetting system peak capacity demands, the additional load required to charge an EV during non-peak times will still contribute to the overall average transformer PUL. Analysis conducted for the *LA100* study indicates, under the ''moderate'' projection, that electrical demand for transportation will be one of the largest contributors to distribution load growth over their analysis period (2020 through 2045).[22] The *LA100* study addresses the load impacts on utility distribution systems, which would be served by liquid-immersed medium-voltage distribution transformers, it does not address the potential impacts to commercial and industrial customers who deploy dry-type distribution transformers. The impact of EV driven load growth on dry-type distribution transformers could also be significant, particularly if EVs are charged on circuits without upgrades to the serving low- or medium-voltage dry-type distribution transformers.

In response to the September 2017 RFI, the Efficiency Advocates challenged DOE's assertion that the record supports a 50 percent PUL for liquid-immersed distribution transformers (on the basis that increasing future load growth at the rate of one percent per-year would result in in-service PULs that would eventually converge with the test standard PUL over time was calculated was incorrectly). In the September 2017 RFI DOE asserted that with a one-percent future growth rate over time, then-current observed RMS PUL values would approximately converge to the standard PUL values. 82 FR 44347, 44349. In response to the load growth assertions from the Efficiency Advocates, DOE examined the trend in sales of electricity to customers made available by the Annual Energy Outlook (AEO) in its Electric Power Monthly periodical.[23] DOE first examined the time period highlighted by the Efficiency Advocates and confirms that 2018 was a year in which sales were much higher than in the preceding period from 2011 through 2017. DOE notes that while 2018 had the greatest year-on-year growth over this period, there were other years with positive growth, and the average year-on-year growth for the period between 2011 through 2018 was 0.4 percent. DOE also finds that the time period highlighted by the Efficiency Advocates is not sufficient for this analysis given that the average in-service lifetime for distribution transformers is 32 years. As such, DOE takes a longer view of the trend of available data when considering the impacts of load growth. When examining the 10-year rolling average of year-on-year growth for the period 2010 through 2020, it can be observed that sales of electricity increased for every period, except for the periods ending in 2017 and 2020, with an average year-on-year increase of 0.3 percent.[24]

As mentioned, the Efficiency Advocates assert that future growth in electricity sales will be driven by population growth, which tends to cause grid expansion and the installation of new transformers, rather than to increase loads on existing transformers. (Efficiency Advocates, No. 34 at p. 2–3) DOE partially agrees with the Efficiency Advocates, that load growth from new construction would be met with new transformers. DOE must consider that the additional factors that drive load growth (*e.g.,* weather events, expanding populations, increased electrification), impact all connected distribution transformers, not just those installed to provide service to new construction, and therefore must consider the effect of load growth's

[19] Palmintier, Bryan, Meghan Mooney, Kelsey Horowitz, *et al.* 2021. ''Chapter 7: Distribution System Analysis.'' In the Los Angeles 100% Renewable Energy Study, edited by Jaquelin Cochran and Paul Denholm. Golden, CO: National Renewable Energy Laboratory. NREL/TP–6A20–79444–7. *www.nrel.gov/docs/fy21osti/79444-7.pdf.*

[20] J. Coignard, P. MacDougall, F. Stadtmueller and E. Vrettos, ''Will Electric Vehicles Drive Distribution Grid Upgrades?: The Case of California,'' in IEEE Electrification Magazine, vol. 7, no. 2, pp. 46–56, June 2019, doi: 10.1109/MELE.2019.2908794.

[21] *Ibid.*

[22] Hale, Elaine, Anthony Fontanini, Eric Wilson, *et al.* 2021. ''Chapter 3: Electricity Demand Projections.'' In the Los Angeles 100% Renewable Energy Study, edited by Jaquelin Cochran and Paul Denholm. Golden, CO: National Renewable Energy Laboratory. NREL/TP–6A20–79444–3. *www.nrel.gov/docs/fy21osti/79444-3.pdf.*

[23] Energy Information Administration, Electric Power Monthly, *www.eia.gov/electricity/monthly/.*

[24] Energy Information Administration, {*Electric Power Monthly December 1997,* DOE/EIA–0226(97/12); *Electric Power Monthly December 2011,* DOE/EIA–0226(2011/12); *Electric Power Monthly December 2017; Electric Power Monthly December 2020*}, *www.eia.gov/electricity/monthly/,* See for each of the four listed time periods: Table 5.1. Sales of Electricity to Ultimate Customers: Total by End-Use Sector.

impact on a transformer's typical use cycle.

The Efficiency Advocates requested DOE respond to their comment on the September 2017 RFI, where the Efficiency Advocates challenged DOE's assertion that, for liquid-immersed distribution transformers, future load growth (at the rate of one percent per-year), would result in in-service PULs that would eventually converge with the standard PUL over time, and stated that the in-service PUL was calculated incorrectly. (Efficiency Advocates, 0015 at p. 1) In the September 2017 RFI, DOE asserted that, on average, the initial (first year) RMS PUL for liquid-immersed transformers ranged from 34 and 40 percent for single- and three-phase equipment, respectively, with a one percent annual increase over the life of the transformer to account for connected load growth. This resulted in a lifetime average PUL of 49 and 56 percent for single- and three-phase liquid-immersed transformers, respectively. And that it was consistent with the current test procedure requirements of rating liquid-immersed transformers at 50 percent PUL. 86 FR 44349. After further analysis of the data, DOE agrees with the Efficiency Advocates that the load growth impact on PUL in the September 2017 RFI was incorrectly calculated. DOE agrees the load growth rates needed to support the assertion that the in-service PUL would converge with the standards PUL over the transformers typical lifetime in the September 2017 RFI would need to be greater than the proposed one percent per-year. While the conclusions drawn in the September 2017 RFI cannot be supported, recent market and policy changes since the publication of the RFI indicate that the premise that there are uncertainties and concerns associated with future load growth, continue to be valid.

c. Risks Associated With Current and Future Losses

Given the diversity of conditions under which distribution transformers are currently operated and the uncertainty as to how future changes in connected loads will affect in-service PULs, DOE must consider how a single standard PUL would fare in both circumstances in which it overestimates and underestimates the in-service PUL. As discussed in section III.D.1, a distribution transformer's efficiency is determined as a function of the total losses at the standard PUL. A distribution transformer's total losses at the standard PUL are the sum of its no-load losses and load losses at the standard PUL. No-load losses are approximately constant with the PUL and load losses increase quadratically with PUL.

Every distribution transformer has a PUL for which efficiency peaks, where no-load and load losses happen to be equal. While there is no prescribed PUL at which this must occur, often, as a result of optimizations in the manufacturing process, transformers are most efficient at, or near, the DOE prescribed standard PUL. Distribution transformers that have a peak efficiency at PUL values greater than the average in-service PUL overemphasize load losses and distribution transformers that have a peak efficiency less than the average in-service PUL overemphasize no-load losses relative to transformer designs with equivalent total losses that peak at the in-service PUL. The asymmetry in rate of loss change—the losses rise faster at PULs greater than the standard PUL than they fall at PULs less than the standard PUL—contributes to the conclusion that the risk of selecting a suboptimal standard PUL is greater on the low side than on the high side. Efficiency falls in proportion to the degree to which in-service PUL diverges from standard PUL. Because a lower in-service PUL corresponds (on a single-unit basis) to a lower absolute quantity of energy, however, a given loss of efficiency equates to a greater absolute quantity of energy when the in-service PUL exceeds standard PUL.[25]

As stated in section III.D.2.a, the Efficiency Advocates recommend DOE select a lower standard PUL to better align with the AMI data. (Efficiency Advocates, No. 34, at pp. 2–3) DOE notes that the maximum technologically feasible design options analyzed in the April 2013 Final Rule consist of distribution transformers that have a peak efficiency well below the standard PUL (often times below 20 percent PUL). 78 FR 23337. This indicates that distribution transformers can be built that perform well at both the in-service PULs cited by the Efficiency Advocates and meet efficiency standards at the current standard PUL. Energy savings achieved through the energy conservation standard rulemaking at the current PUL have less of this asymmetric risk because they do not discount load losses to the same degree as a lower PUL.

In addition to considering the energy savings potential of the standard PUL overestimating and underestimating in-service PUL, DOE also considered the financial value of losses to consumers associated with overestimating and underestimating in-service PULs.

i. Peak Coincidence Risks

The Efficiency Advocates suggested that it in the best interest of utilities to pursue programs to mitigate risks related to peak demands. (Efficiency Advocates, No. 34 at p. 3) Demand response programs can help flatten peaks at the grid, distribution, and individual consumer levels. A simplified example is a demand response program which promotes peak-load shifting, wherein utility ratepayers defer or forego electrical consumption during times when the system is peaking. This may have a bottom-up effect of reducing peak power through individual distribution transformers by reducing peak generation. Owners of distribution transformers typically face different costs depending on overall demand, which influences the mix of generation and storage they may deploy to meet the demand. Large electrical consumers (who with electrical utilities generally form the total set of distribution transformer owners), too, face demand-based cost of electrical power. In general, marginal cost of electricity is greater during times of high demand. This carries implications for valuing the losses of distribution transformers. Specifically, load losses will tend to be costlier for the owner of the distribution transformers as proportionally more of them occur during periods of high demand and correspondingly higher energy cost.

By their nature, distribution transformers tend to be ''peak-coincident'', *i.e.,* the peak load on the distribution transformers tends to coincide with peak load on the larger electrical network. That distribution transformer loading peaks to when electrical power costs peak can result in certain distribution transformer customers bearing high operating cost for a small number of peak operating hours. Distribution transformers designed without account of this electrical cost dynamic, optimized for lower in-service PULs, will operate at comparatively low efficiency when the cost of operation is greatest. DOE recognizes that demand response programs can reduce the peak-load impacts. However, because distribution transformers reflect the load patterns of their connected loads, the risks of the high rate of load losses associated with peak coincidence cannot be fully controlled by utilities and are dependent on consumer patterns. Accordingly, DOE needs to maintain a

[25] See: Section 2.3 of Chapter 2. Analytical Framework, Comments from Interested Parties, and DOE Responses of the Prelim TSD at Docket No. EERE–2019–BT–STD–0018–0022.

PUL which adequately addresses both high and low in-service loads.

ii. Serving Future No-Load and Load Losses

In evaluating the financial risk to consumers of the standard PUL over- and underestimating in-service PULs, and given the long lifespans of distribution transformers, DOE needs to consider how future no-load and load losses will be served.

The way in which future electricity generation needs will be met has historically been considered in DOE's ECS analyses. However, to the extent that the choice of metric affects the cost effectiveness and energy consumption (both in the aggregate quantity and the timing of that energy consumption) of consumers, some background on the power grid (the operating site of distribution transformers) is necessary to understand the broader impacts of any metric change. Insofar as purchasers of distribution transformers select on the basis of first cost, manufacturers may attempt to minimize first cost subject to compliance with energy conservation standards. The specific distribution transformer design that minimizes first cost may vary based on the metric it is being evaluated against. Thus, selection of standard PUL may indirectly influence purchase prices and energy consumption of distribution transformers.

In the April 2013 ECS Final Rule, DOE assumed that future power needs for no-load losses would be met by the mix of different baseline generation types in the year of compliance, 2016. 78 FR 23337. At that time, DOE based its analysis on the data available from AEO 2012, which indicated a mix of generation types which was predominantly served by coal at 26 percent, natural gas combined cycle at 19 percent, renewables and natural gas combustion turbines both at 15 percent, with the remainder generation being met by other generation types.[26] DOE projected that future no-load losses generation would be met by new capacity from coal, as it serves predominantly base load, and natural gas and renewables serve a mix of base-, mid-merit and peaking loads.[27] DOE assumed that load losses would be met with simple combustion turbines.[28] This resulted in a cost, in terms of dollars per watt, ($/W) for no-load losses that was higher than the cost of load losses. A contributing factor to this difference is the relatively high overnight capital cost of large coal plants, in terms of dollars per megawatt unit capacity, ($/MW) when compared to other generating types for determining the capacity cost component of the cost of electricity. However, the current AEO 2021 projects a very different mix of generating fuel types, now and into the future, with retiring coal and, to a lesser degree, nuclear generation being displaced by natural gas, in the near-term, and then renewables in future years. These trends are shown in Table III.3. This shift in generating fuels suggests that the future cost associated with no-load losses and load losses will be closer in price than previously estimated as similar generating units are used to meet both no-load and load losses.

TABLE III.3—PROJECTED FRACTION OF GENERATION BY FUEL TYPES FOR CERTAIN YEARS

[Percent of total generation]

Year	Coal (%)		Natural gas (%)		Nuclear (%)		Renewable sources (%)		Other sources (%) *	
AEO	2012 **	2021 †	2012	2021	2012	2021	2012	2021	2012	2021
2010	46	.....	23	.....	20	.....	10	.....	1	.....
2015	39	.....	26	.....	21	.....	13	.....	1	.....
2020	40	20	24	40	22	20	13	20	1	0
2025	41	17	24	35	21	18	14	29	1	0
2030	40	16	25	34	21	15	13	34	1	0
2035	40	15	26	33	19	14	14	37	1	0
2040	.....	14	.....	34	.....	13	.....	38	.....	0
2045	.....	12	.....	35	.....	13	.....	39	.....	0
2050	.....	12	.....	35	.....	12	.....	41	.....	0

* Includes the following generation fuel-type categories: Distributed Generation, Generation for Own Use, Petroleum, Pumped Storage/Other.

** Source: U.S. Energy Information Administration, Annual Energy Outlook 2012, Electricity Electric Power Sector Generation (Case Reference case Region United States).

† Source: U.S. Energy Information Administration, Annual Energy Outlook 2021, Electricity Electric Power Sector Generation (Case Reference case Region United States).

As stated previously, in this final rule, DOE is maintaining the current standard PUL specifications. DOE is centralizing the PUL specifications in appendix A, as discussed in section III.F.1.

Further, the test procedure and accompanying energy conservation standards do not preclude manufacturers from optimizing distribution transformer performance at a PUL other than the standard PUL so long as the unit complies with the applicable standard when tested at the standard PUL. While reducing the standard PUL could in certain cases have a positive impact on energy savings, especially for distribution transformers fabricated with low-loss core materials such as amorphous steel, the same energy savings outcome can often be achieved through amending the energy conservation standard for distribution transformers. In other words, the savings associated with a potential reduction of standard PUL is often a byproduct of greater consumer selection of amorphous-based transformers, which by chance tend to both be relatively better at smaller PUL values and also be more efficient in absolute terms. Many of the distribution transformer designs in the accompanying energy conservation standards preliminary engineering analysis with efficiencies above the current standard are optimized to operate at a PUL below 25 percent due to the use of amorphous steel cores, while certifying at the current standard PUL. It is in the accompanying energy conservation standards where details and data related to the efficiency standards of distribution transformers can be fully evaluated under the EPCA requirements that any new or amended energy conservation standard be designed to achieve the maximum improvement in energy or water

[26] Energy Information Administration, Annual Energy Outlook, 2012, *Table 54. Electric Power Projections by Electricity Market Module Region.*

[27] See Chapter 7 of the 2013 final rule TSD, available at *https://www.regulations.gov/document/EERE-2010-BT-STD-0048-0760.*

[28] *Ibid.*

efficiency that is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) DOE is also permitting voluntary representations of efficiency at additional PULs so that manufacturers can communicate to customers the efficiency of their distribution transformers at various service PULs, as discussed in section III.D.3. Additionally, voluntarily representations at additional PULs may be relied upon by voluntarily programs such as ENERGY STAR®, which publishes a buying guide [29] to assist distribution transformer purchasers that may save energy and cost in the context of the purchasers' specific PUL distribution.

Finally, DOE notes that the observable data and trends indicate that there are ongoing changes in policies, consumer demand, and data availability which are beginning to have an impact on the distribution transformer operations. These changes present uncertainties with regard to distribution transformer loading, and DOE will continue to evaluate changes in the market and in operation that may require consideration in future test procedure evaluations.

3. Voluntary Representations of Efficiency at Additional PULs

In the May 2019 NOPR, DOE proposed amendments to the test procedure to permit manufacturers to make voluntary representations of additional performance information of distribution transformers when operated under conditions other than those required for compliance with the energy conservation standards for distribution transformers at 10 CFR 431.196. 84 FR 20704, 20714. DOE proposed the provisions regarding voluntary representations to help consumers make better purchasing decisions based on their specific installation conditions. Specifically, DOE proposed in a new section 7 of appendix A to specify that manufacturers are permitted to represent efficiency, no-load loss, or load loss at additional PULs and/or reference temperatures, as long as the equipment is also represented in accordance with DOE's test procedure at the mandatory (standard) PUL and reference temperature. When making voluntary representations, best practice would be for the manufacturers also to provide the PUL and reference temperature corresponding to those voluntary representations.

NEMA stated that the current test procedure is already applicable to alternative PULs. (NEMA, No. 30 at p. 4) Howard, CDA, and HVOLT commented that voluntary representations would be useful in examining efficiencies at alternative PULs. (Howard, No. 32 at p. 1; CDA, No. 29 at p. 3; CDA, No. 29 at p. 4; HVOLT, No. 27 at p. 92–94)

As discussed, while the test procedure accommodates testing at any PUL, and correcting the results to reflect any other specified PUL, DOE's energy conservation standards specify standard PULs that must be used to represent the energy efficiency of distribution transformers. 10 CFR 431.196. EPCA prohibits manufacturers from making representations respecting the energy consumption of covered equipment or cost of energy consumed by such equipment unless that equipment has been tested in accordance with the applicable DOE test procedure and such representations fairly disclose the results of that testing. (42 U.S.C. 6314(d)) Accordingly, there is benefit in manufacturers being explicitly permitted to make representations respecting energy consumption at alternative PULs and reference temperatures that may better suit an individual consumer's demands.

For the reason expressed in the May 2019 NOPR and above, DOE is establishing new section 7 of appendix A, which explicitly provides that any PUL and temperature values other than those required for determining compliance can be used for voluntary representations when testing is conducted in accordance with the applicable DOE test procedure. Table III.4 summarizes the applicable PUL and temperature values.

TABLE III.4—SUMMARY OF VOLUNTARY REPRESENTATION

	Mandatory certified values *			Voluntary representations		
	Metric	PUL (percent)	Reference temperature for loead loss (°C)	Metric	PUL (percent)	Reference temperature (°C)
Liquid Immersed	Efficiency	50	55	Efficiency, load loss, no-load loss.	Any	Any.
MVDT		50	75			
LVDT		35	75			

* Efficiency must be determined at a reference temperature of 20 °C for no-load loss for all distribution transformers.

E. Multiple Voltage Capability

Some distribution transformers have primary windings (''primaries'') and secondary windings (''secondaries'') that may each be reconfigured, for example either in series or in parallel, to accommodate multiple voltages. Some configurations may be more efficient than others.

Section 4.5.1(b) of appendix A requires that for a transformer that has a configuration of windings that allows for more than one nominal rated voltage, the load losses must be determined either in the winding configuration in which the highest losses occur, or in each winding configuration in which the transformer can operate. Similarly, section 5.0 of appendix A states that for a transformer that has a configuration of windings that allows for more than one nominal rated voltage, its efficiency must be determined either at the voltage at which the highest losses occur, or at each voltage at which the transformer is rated to operate. Under either testing and rating option (*i.e.,* testing only the highest loss configuration, or testing all configurations), the winding configuration that produces the highest losses is tested and consequently must comply with the applicable energy conservation standard.

[29] United States Environmental Protection Agency. *ENERGY STAR® Guide to Buying More Energy Efficient Distribution Transformers. October 2017. Accessed July 7, 2021. https://www.energystar.gov/sites/default/files/asset/document/Transformers%20Buyer%27s%20GuideFinal10-16-17.pdf.*

The relevant industry test standards, IEEE C57.12.00–2015 and IEEE C57.12.01–2020, direct distribution transformers to be shipped with the windings in series. Therefore, a manufacturer physically testing for DOE compliance may need to disassemble the unit, reconfigure the windings to test the configuration that produces the highest losses, test the unit, then reassemble the unit in its original configuration for shipping, which would add time and expense.

In the May 2019 NOPR, DOE did not propose amending the requirement related to transformers being tested in the configuration that produces the highest losses. 84 FR 20704, 20718. DOE noted that it provides for certification using an alternative efficiency determination method (AEDM), which is a mathematical model based on the transformer design (10 CFR 429.47), and that the availability of an AEDM mitigates the potential cost associated with having to physically test a unit in a configuration other than in its ''as-shipped'' configuration. *Id.*

Howard, NEMA, CDA and HVOLT suggested that transformers be tested in the ''as-shipped'' configuration, which is typically with the windings in series. (Howard, No 32 at p. 1; CDA, No. 29 at p. 3; HVOLT, No. 27 at p. 92; NEMA, No. 30 at p. 6) NEMA commented that the requirement to test in the highest losses configuration is confusing to customers and adds undue burden on manufacturers, whereas industry testing standards have changed to test and ship in highest voltage configurations. (NEMA, No. 30 at p. 6) NEMA claims the burden associated with requiring testing of the configuration with the highest loss is especially unnecessary given that the overwhelming majority of transformers are used in the highest voltage configuration, with less than 5% of transformers in applications other than the ''as-shipped'' configuration. (NEMA, No. 30 at p. 6) NEMA asserted that while it can be hard to generalize the losses associated with less efficient winding configurations, given the variability in application, the losses are typically less than 1% of load losses, and that it has never seen the difference between configurations exceed 2% of load losses. (NEMA, No. 30 at p. 4; NEMA, No. 30 at p. 6) NEMA further asserted that given the minimal efficiency gains in testing in the highest-loss and the relatively small percentage of transformers operated in a configuration other than ''as-shipped'', the burden on manufacturers is not justified. (NEMA, No. 30 at p. 6)

As stated in the May 2019 NOPR, DOE recognizes that testing in the as-shipped condition may be less burdensome for certain manufacturers, but DOE also stated that it does not have data to support NEMA's claim that the ''as-shipped'' configuration would lead to a maximum of 2 percent increase in load losses. 84 FR 20704, 20718. NEMA cited certain example distribution transformers where the load loss increase was 2 percent or less, however, the data is only for a few select distribution transformers and not representative of the industry as a whole. (NEMA, No. 30 at p. 7) In interviews, several manufacturers suggested that in certain extreme cases the difference in efficiency could be much higher than the 2 percent figure cited by NEMA.

Further, even if DOE did have data affirming the 2 percent figure NEMA cited, it would be expected that such a change to the test procedure would require a corresponding change to the energy conservation standards to account for the change in measured load loss values. A change to the energy conservation standards would necessitate certain manufacturers of transformers with multiple windings to re-test and re-certify their performance to DOE.

As explained in the May 2019 NOPR, as an alternative to physical testing, DOE provides for certification using an AEDM, which is a mathematical model based on the transformer design. 10 CFR 429.47. The shipped configuration has no bearing on the AEDM calculation, and an AEDM can determine the highest-loss configuration instantly. DOE notes that most transformers are currently certified using the AEDM and the current burden is therefore less than the commenters asserted for the majority of manufacturers. In interviews, manufacturers suggested that this burden existed only when verifying an AEDM. Further, many distribution transformers are reconfigured using a switch, which minimizes effort required to change winding configurations. NEMA confirmed that there is no burden associated with rewiring when utilizing an AEDM and rather that the benefit to changing to ''as-shipped'' testing is that for higher-volume, single-phase pole mount units manufacturers could continually gauge the ''as-shipped'' performance against the AEDM. (NEMA, Docket No. EERE–2017–BT–TP–0055–0036 at p. 3) While there may be benefits in continually gauging the ''as-shipped'' performance against the AEDM, DOE remains concerned about the magnitude of the increase in load losses for certain distribution transformers.

As a result, DOE is not amending in this final rule the current requirements of section 4.5.1(b) of appendix A (for a transformer that has a configuration of windings that allows for more than one nominal rated voltage, the load losses must be determined either in the winding configuration in which the highest losses occur, or in each winding configuration in which the transformer can operate) and section 5.0 of appendix A (for a transformer that has a configuration of windings that allows for more than one nominal rated voltage, its efficiency must be determined either at the voltage at which the highest losses occur, or at each voltage at which the transformer is rated to operate).

F. Other Test Procedure Topics

In addition to the updates to the DOE test procedure discussed in the preceding sections, DOE also considered whether the existing test procedure would benefit from any further revisions and/or reorganizing. Additional issues are discussed in the following sections.

1. Per-Unit Load Specification

In the May 2019 NOPR, DOE proposed to centralize the PUL specifications, both for the certification to energy conservation standards and for use with a voluntary representation. 84 FR 20704, 20718–20719. Currently, the PULs required for certification to energy conservation standards are specified for each class of distribution transformer at 10 CFR 431.196 and referenced indirectly in multiple locations, including 10 CFR 431.192 (within the definition of reference temperature), section 3.5(a) of appendix A, and section 5.1 of appendix A. DOE proposed to consolidate the PUL specification into one location—a newly proposed section 2.1 of appendix A. Additionally, DOE proposed to provide in the proposed section 2.1 of appendix A that the PUL specification can be any value for purposes of voluntary representations. *Id.* DOE did not receive any comments on these proposed changes and is adopting them in this final rule.

The consolidation enhances readability of the test procedure and more clearly communicates the PUL requirements with respect to certification to energy conservation standards and voluntary representations. The updates do not change the standard PUL requirements with respect to certification to energy conservation standards. Instead, the updates improve clarity with respect to selection of PUL for voluntary

representations versus certification to energy conservation standards.

DOE also proposed editorial changes to section 5.1 of appendix A to support the consolidated approach to PUL specification. 84 FR 20704, 20719. Section 5.1 of appendix A provides equations used to calculate load-losses at any PUL. Section 5.1 of appendix A used language that limited its applicability to certification to energy conservation standards only. For example, it referenced the ''specified energy efficiency load level'' (*i.e.,* the PUL required for certification to energy conservation standards) specifically. DOE proposed to generalize the language in this section to reference the PUL selected in the proposed section 2.1. *Id.*

DOE did not receive any comments regarding these proposed editorial changes and is adopting them in this final rule.

2. Reference Temperature Specification

Similar to PUL, DOE proposed to consolidate the reference temperature specifications for certification to energy conservation standards and for the proposed voluntary representations. 84 FR 20704, 20719. The reference temperature specifications for certification to energy conservation standards are defined at 10 CFR 431.192 (as the definition of ''reference temperature''), and are referenced in section 3.5(a) of appendix A and section 4.4.3.3 of appendix A. DOE proposed to consolidate the reference temperature specifications into one location—a newly proposed section 2.2 of appendix A. 84 FR 20704, 20719. Additionally, DOE proposed to describe in the proposed section 2.2 of appendix A that the reference temperature specification can be any value for purposes of voluntary representations. *Id.* DOE did not receive any comments on the proposed changes and is adopting them in this final rule.

Similar to PUL, this consolidation will enhance readability of the test procedure and more clearly communicate DOE's reference temperature requirements with respect to certification to energy conservation standards or voluntary representations. The updates do not change existing reference temperature requirements with respect to certification to energy conservation standards. Instead, the updates improve clarity with respect to selection of reference temperature for voluntary representations versus certification to energy conservation standards.

DOE also proposed editorial changes to sections 3.5 and 4.4.3.3 of appendix A to support the consolidated approach to reference temperature specification. Section 3.5 of appendix A provided reference temperatures for certification to energy conservation standards. DOE has consolidated reference temperature specifications into one location (section 2.2); therefore, DOE has removed the same specification in section 3.5 so that the section is applicable to determine voluntary representations.

Section 4.4.3.3 of appendix A provides the specifications and equations used for correcting no-load loss to the reference temperature. Specifically, the section provides an option for no correction if the no-load measurements were made between 10 °C and 30 °C (representing a ±10 °C tolerance around the 20 °C reference temperature). This tolerance is applicable only for certification to energy conservation standards. For simplicity, DOE proposed no such tolerance for voluntary representations at additional reference temperatures, so that all measured values would be adjusted using the reference temperature correction formula. 84 FR 20704, 20719. Finally, DOE proposed to remove any reference to a reference temperature of 20 °C so that the section would be applicable to determine voluntary representations. *Id.*

DOE did not receive any comments on these proposed changes and is adopting them in this final rule.

3. Measurement Location

DOE proposed to specify that load and no-load loss measurements are required to be taken only at the transformer terminals. 84 FR 20704, 20719. In the May 2019 NOPR, DOE proposed a definition for ''terminal,'' as described in section III.C.2.b of this final rule. DOE notes that section 5.4 of IEEE.C57.12.90–2015 and section 5.6 of IEEE C57.12.91–2020 specify terminal-based load-loss measurements. In addition, section 8.2.4 of IEEE.C57.12.90–2015 and section 8.2.5 of IEEE C57.12.91–2020 provide the same for no-load loss measurement. These documents reflect current industry practices and manufacturers are already measuring losses at the transformer terminals. Therefore, DOE proposed to specify in section 4.3(c) of appendix A that both load loss and no-load loss measurements must be made from terminal to terminal. 84 FR 20704, 20719.

DOE received no comments in response to this proposal and is adopting it in this final rule.

4. Specification for Stabilization of Current and Voltage

Section 3.3.2 and 3.3.1 of appendix A describe a voltmeter-ammeter method and resistance bridge methods, respectively, for measuring resistance. Both methods require measurements to be stable before determining the resistance of the transformer winding being measured. Specifically, the voltmeter-ammeter method in section 3.3.2(b) of appendix A requires that current and voltage readings be stable before taking simultaneous readings of current and voltage to determine winding resistance. For the resistance bridge methods, section 3.3.1 of appendix A requires the bridge to be balanced (*i.e.,* no voltage across it or current through it) before determining winding resistance. Both methods allow for a resistor to reduce the time constant of the circuit, but do not explicitly specify how to determine when measurements are stable. DOE notes that IEEE C57.12.90–2015, IEEE C57.12.91–2020, IEEE C57.12.00–2015, and IEEE C57.12.01–2020 do not specify how to determine that stabilization is reached. Section 3.4.2 of appendix A provides related instruction for improving measurement accuracy of resistance by reducing the transformer's time constant. However, section 3.4.2 also does not explicitly provide for the period of time (such as a certain multiple of the time constant) necessary to achieve stability. In the May 2019 NOPR, DOE requested comment on how industry currently determines that measurements have stabilized before determining winding resistance using both voltmeter-ammeter method and resistance bridge methods. 84 FR 20704, 20719.

NEMA commented that testing is typically done with a computer/electronic automatic test system where the feature is provided. NEMA stated that its members have not used a resistance bridge method in 20 years. (NEMA, No. 30 at p. 4) HVOLT and CDA commented that both the resistance bridge and voltmeter-ammeter methods should be accurate as long as four-time constants have passed. (HVOLT, No. 27 at p. 93; CDA, No. 29 at p. 3)

Commenters have not suggested that there is an issue with the accuracy of measurements associated with achieving sufficient stability and did not suggest that DOE needed to explicitly provide for the period of time necessary to achieve stability. Therefore, DOE has not adopted any amendments related to the period of time to achieve stability.

5. Ambient Temperature Tolerances

In response to the September 2017 RFI, NEMA recommended that DOE increase the ambient temperature tolerances for testing dry-type transformers, stating that testing may otherwise be burdensome in laboratories that are not climate controlled, and that a mathematical correction factor could be developed as an alternative to the temperature limits. (NEMA, Docket No. EERE–2017–BT–0055–0014 at p. 2)

In the May 2019 NOPR, DOE explained that while widening the tolerances of temperatures (or other measured parameters) may reduce testing cost, it may impact the reproducibility and repeatability of the test result. 84 FR 20704, 20719–20720. Further, NEMA acknowledged that manufacturers are not having difficulty meeting the temperature requirement. (NEMA, Docket No. EERE–2017–BT–0055–0014 at p. 8)

DOE does not have data regarding typical ranges of laboratory ambient temperature and, as a result, cannot be certain that reduction in temperature tolerance would not impact reproducibility, repeatability, and accuracy and cause future test results to become incomparable to past data. For these reasons, DOE did not propose amendments to the laboratory ambient temperature and transformer internal temperature requirements in the May 2019 NOPR. 84 FR 20704, 20720.

Comments received on this issue supported maintaining the current ambient temperature tolerances. (Howard, No. 31 at p. 1; NEMA, No. 30 at p. 4; CDA, No. 29 at p. 3; HVOLT, No. 27 at p. 93) For the reasons discussed in the May 2019 NOPR and in the preceding paragraph, DOE is maintaining the ambient temperature requirements in appendix A.

6. Harmonic Current

Harmonic current refers to electrical power at alternating current frequencies greater than the fundamental frequency. Distribution transformers in service are commonly subject to (and must tolerate) harmonic current of a degree that varies by application. Sections 4.4.1(a) and 4.4.3.2(a) of appendix A direct use of a sinusoidal waveform for evaluating efficiency in distribution transformers.

DOE recognizes that transformers in service are subject to a variety of harmonic conditions, and that the test procedure must provide a common basis for comparison. Currently, the test procedure states that transformers designed for harmonic currents must be tested with a sinusoidal waveform (*i.e.,* free of harmonic current), but does not do so for all other varieties of transformers. However, the intent of the test procedure is for all transformers to be tested with a sinusoidal waveform, as is implicit in section 4.4.1(a) of appendix A. To clarify this test setup requirement, DOE proposed to modify section 4.1 of appendix A to read ''. . . Test all distribution transformers using a sinusoidal waveform (k=1).'' 84 FR 20704, 20720 This is consistent with industry practice and manufacturers are already testing all distribution transformers using a sinusoidal waveform. *Id.*

DOE received several comments in support of this clarification and none in opposition. (Howard, No. 32 at p. 2; NEMA, No. 30 at p. 4; CDA, No. 29 at p. 3; HVOLT, No. 27 at p. 93) For the reasons discussed in the May 2019 NOPR and in the preceding paragraph, DOE is adopting the clarification regarding use of a sinusoidal waveform as proposed.

7. Other Editorial Revisions

In the May 2019 NOPR, DOE proposed the following editorial updates to improve the readability of the test procedure and provide additional detail: (i) Revising ''shall'' (and a single instance of ''should'' in the temperature condition requirements at section 3.2.2(b)(3)) to ''must'' throughout appendix A, (ii) clarifying the instructional language for recording the winding temperature for dry-type transformers (section 3.2.2 of appendix A), (iii) separating certain sentences into enumerated clauses (section 3.2.2(a) of appendix A),[30] (iv) identifying the corresponding resistance measurement method sections (section 3.3 of appendix A), (v) replacing a reference to ''uniform test method'' with ''this appendix'' (section 3.3 of appendix A), (vi) removing reference to guidelines under section 3.4.1, *Required actions,* of appendix A to clarify that section establishes requirements, (vii) specifying the maximum amount of time for the temperature of the transformer windings to stabilize (section 3.2.2(b)(4) of appendix A [31]), (viii) removing references to the test procedure in 10 CFR 431.196, and (ix) replacing any reference to accuracy requirements in ''section 2.0'' and/or ''Table 2.0'' to ''section 2.3'' and/or ''Table 2.3,'' accordingly. 84 FR 20704, 20720.

Section 3.2.2 of appendix A requires that, for testing of both ventilated and sealed units, the ambient temperature of the test area may be used to estimate the winding temperature (rather than direct measurement of the winding temperature), provided a number of conditions are met, including the condition that neither voltage nor current has been applied to the unit under test for 24 hours (provided in section 3.2.2(b)(4) of appendix A). The same section also allows for the time period of the initial 24 hours to be increased to up to a maximum of an additional 24 hours, so as to allow the temperature of the transformer windings to stabilize at the level of the ambient temperature. Based on this requirement, the total amount of time allowed would be a maximum of 48 hours. As such, in the May 2019 NOPR, DOE proposed to specify explicitly that, for section 3.2.2(b)(4) of appendix A, the total maximum amount of time allowed is 48 hours. *Id.*

DOE also proposed conforming amendments to the energy conservation standard provisions. The provisions in 10 CFR 431.196 establishes energy conservation standards for certain distribution transformers. *Id.* Immediately following each table of standards, a note specifies the applicable standard PUL and DOE test procedure. For example, in 10 CFR 431.196(a) the note reads, ''Note: All efficiency values are at 35 percent of nameplate-rated load, determined according to the DOE Test Method for Measuring the Energy Consumption of Distribution Transformers under appendix A to subpart K of 10 CFR part 431.'' Because 10 CFR 431.193 already requires that testing be in accordance with appendix A, DOE proposes to remove the references to the test procedure in 10 CFR 431.196. DOE proposes to maintain the portion of the note identifying the PUL corresponding to the efficiency values, for continuity and clarity. *Id.*

As discussed in sections III.F.1 and III.F.2 of this final rule, DOE is clarifying the PUL and reference temperature specifications for certification to energy conservation standards, and providing PUL and reference temperature specifications for voluntary representations, with a new section 2.1 for PUL requirements and section 2.2 for reference temperature requirements in appendix A. Accordingly, DOE proposed that the accuracy requirements previously provided in section 2.0 be moved to section 2.3 in appendix A. In addition, DOE proposed to re-number Table 2.1, Test System Accuracy Requirements for Each Measured Quantity, to Table 2.3. Lastly, DOE proposed to update cross-

[30] Under the changes adopted in this document, section 3.2.2(a) of appendix A is split into section 3.2.2(a) and section 3.2.2(b).

[31] Under the changes adopted in this document, this section is redesignated as section 3.2.2(c)(4) of appendix A.

references in appendix A to the accuracy requirements in section 2.0 and/or Table 2.1, to section 2.3 and/or Table 2.3. The cross-references occur in sections 3.1(b), 3.3.3, 3.4.2(a), 4.3(a), 6.0, and 6.2 of appendix A.

DOE did not receive any comment in opposition to these edits and is adopting them in the test procedure.

NEMA noted certain errors in the equation references in section 4 of appendix A. (NEMA, No. 30 at p. 5) Specifically, NEMA stated that the load loss power (P_{lc1}) appears with subscripts ''LCL'', ''LCI'', and ''LC1'' (capital letters used for clarity, but lower case used in the text). *Id.* DOE has reviewed the subscripts in section 4 of appendix A and corrected each instance to ''LC1'' (capitalized here for clarity) where necessary.

NEMA also noted that there is potential confusion regarding which reference temperature should be used in section 4.5.3.3 of appendix A. NEMA suggested to clarify the text as follows: ''When the measurement of load loss is made at a temperature T_{im} that is different from the reference temperature, use the procedure summarized in the equations 4–6 to 4–10 to correct the measured load loss to the reference temperature (as defined in 3.5 (a)).'' (NEMA, No. 30 at p. 5–6) This final rule includes a new section, section 2.2 of appendix A, to specify reference temperature in a centralized location, as described in section III.F.2 of this document. In view of the new requirement, NEMA's suggested edits to specify reference temperature in section 4.5.3.3 are redundant.

PG&E commented in response to the May 2019 NOPR that in order to properly comment, it would like a before and after document of proposed changes to the CFR. (PG&E, No. 33 at p. 1) The May 2019 NOPR includes a synopsis table of the proposed changes, including a side-by-side comparison of the current DOE TP language, the proposed test procedure language, and attribution of the changes. 84 FR 20704, 20706. Further, DOE published all proposed regulatory text in the May 2019 NOPR which could be juxtaposed with the current CFR in order to perform the comparison PG&E describes. 84 FR 20704, 20727–20730.

G. Effective and Compliance Dates

The effective date for the adopted test procedure amendment is 30 days after publication of this final rule in the **Federal Register**. EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of the final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2); 42 U.S.C. 6314(d)(1)) EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3); 42 U.S.C. 6314(d)(2)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

H. Test Procedure Costs

In this final rule, DOE is amending the existing test procedure for distribution transformers by revising certain definitions, incorporating new definitions, incorporating revisions based on the latest versions of the IEEE industry testing standards, including provisions to allow manufacturers to use the DOE test procedure to make voluntary representations at additional PULs and/or reference temperatures, and reorganizing content among relevant sections of the CFR to improve readability. The adopted amendments primarily provide updates and supplemental details for how to conduct the test procedure and do not add complexity to test conditions/setup or add test steps. In accordance with EPCA, DOE has determined that these adopted amendments will not be unduly burdensome for manufacturers to conduct. Further, DOE has determined that the adopted test procedure amendments will not impact testing costs already experienced by manufacturers. DOE estimated, based on a test quote from a laboratory, that the cost for testing distribution transformers using the existing test procedure is approximately $400 per unit tested and that this figure will not change in response to the adopted test procedure amendments. In summary, the adopted test procedure amendments reflect and codify current industry practice.

As previously described in the May 2019 NOPR, the adopted amendments will not impact the scope of the test procedure. The adopted amendments will not require the testing of distribution transformers not already subject to the test procedure at 10 CFR 431.193 (*i.e.,* the adopted amendments will not require manufacturers to test autotransformers, drive (isolation) transformers, grounding transformers, machine-tool (control) transformers, nonventilated transformers, rectifier transformers, regulating transformers, sealed transformer; special-impedance transformer; testing transformer; transformer with tap range of 20 percent or more; uninterruptible power supply transformer; or welding transformer, which are presently not subject to testing). The adopted amendments will not alter the measured energy efficiency or energy use of the distribution transformers. Manufacturers will be able to rely on data generated under the current test procedure. Further, the adopted amendments will not require the purchase of additional equipment for testing.

In the May 2019 NOPR, DOE described why the proposed test procedure amendments would not add costs to manufacturers. In response, manufacturers commented stating the proposed testing should not increase testing costs for any manufacturers. (Howard, No. 32 at p. 2; CDA, No. 29 at p. 3–4; HVOLT, No. 27 at p. 91–93) NEMA commented that it does not anticipate any negative impact or increased costs associated with any of the proposed changes but stressed that DOE continue to allow manufacturers to certify distribution transformers using an AEDM as is allowed at 10 CFR 429.70(d) in order to minimize testing costs. (NEMA, No. 30 at p. 4) DOE notes that it has not proposed or adopted any changes to 10 CFR 429.70(d), and manufacturers are permitted to use an AEDM for means of certifying distribution transformer efficiency to DOE.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined this test procedure rulemaking does not constitute a ''significant regulatory action'' under section 3(f) of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive order by the Office of Information and Regulatory Affairs (''OIRA'') in OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (''FRFA'') for any final rule where the agency was first required by law to publish a proposed rule for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272,

''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *https://energy.gov/gc/office-general-counsel.*

As stated, the amendments adopted in this final rule revise certain definitions, incorporate new definitions, incorporate revisions based on the latest versions of the IEEE industry testing standards, include provisions to allow manufacturers to use the DOE test procedure to make voluntary representations at additional PULs and/or reference temperatures, and reorganize content among relevant sections of the CFR to improve readability. DOE has determined that the adopted test procedure amendments would not impact testing costs already experienced by manufacturers. NEMA, CDA, and HVOLT commented that they do not anticipate any undue burden on small businesses or small manufacturers. (NEMA, No. 30 at p. 5; CDA, No. 29 at p. 4; HVOLT, No. 27 at p. 94)

Therefore, DOE concludes that the cost effects accruing from the final rule would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of a FRFA is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of distribution transformers must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedure, including any amendments adopted for that test procedure. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including distribution transformers. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The amendments adopted in this final rule do not impact the certification and reporting requirements for distribution transformers.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5, because it is an interpretive rulemaking that does not change the environmental effect of the rule and meets the requirements for application of a CX. *See* 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and does not require an EA or EIS.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met, or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that

may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *https://energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry testing standards on competition.

The modifications to the test procedure for distribution transformers adopted in this final rule do not incorporate testing methods contained in commercial standards. Therefore, the requirements of section 32(b) of the FEAA do not apply.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on September 2, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the

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

Signed in Washington, DC, on September 2, 2021.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE amends part 431 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.192 is amended by:

■ a. Adding in alphabetical order the definition for *Auxiliary device;*

■ b. Revising the definition of *Low-voltage dry-type distribution transformer;*

■ c. Adding in alphabetical order the definition for *Per-unit load;*

■ d. Revising the definition of *Reference temperature;* and

■ e. Adding in alphabetical order the definition for *Terminal.*

The additions and revisions read as follows:

§ 431.192 Definitions.

* * * * *

Auxiliary device means a localized component of a distribution transformer that is a circuit breaker, switch, fuse, or surge/lightning arrester.

* * * * *

Low-voltage dry-type distribution transformer means a distribution transformer that has an input voltage of 600 volts or less and has the core and coil assembly immersed in a gaseous or dry-compound insulating medium.

* * * * *

Per-unit load means the fraction of rated load.

* * * * *

Reference temperature means the temperature at which the transformer losses are determined, and to which such losses are corrected if testing is done at a different point. (Reference temperature values are specified in the test method in appendix A to this subpart.)

* * * * *

Terminal means a conducting element of a distribution transformer providing electrical connection to an external conductor that is not part of the transformer.

* * * * *

■ 3. Section 431.193 is revised to read as follows:

§ 431.193 Test procedure for measuring energy consumption of distribution transformers.

The test procedure for measuring the energy efficiency of distribution transformers for purposes of EPCA is specified in appendix A to this subpart. The test procedure specified in appendix A to this subpart applies only to distribution transformers subject to energy conservation standards at § 431.196.

■ 4. Section 431.196 is amended by revising the Notes in paragraphs (a)(1) and (2), (b)(1) and (2), and (c)(1) and (2) to read as follows:

§ 431.196 Energy conservation standards and their effective dates.

(a) * * *

(1) * * *

Note 1 to paragraph (a)(1): All efficiency values are at 35 percent per-unit load.

(2) * * *

Note 2 to paragraph (a)(2): All efficiency values are at 35 percent per-unit load.

(b) * * *

(1) * * *

Note 3 to paragraph (b)(1): All efficiency values are at 50 percent per-unit load.

(2) * * *

Note 4 to paragraph (b)(2): All efficiency values are at 50 percent per-unit load.

(c) * * *

(1) * * *

Note 5 to paragraph (c)(1): All efficiency values are at 50 percent per-unit load.

(2) * * *

Note 6 to paragraph (c)(2): All efficiency values are at 50 percent per-unit load.

* * * * *

■ 5. Appendix A to subpart K of part 431 is amended by:

■ a. In section 2.0:

■ i. Revising the section heading;

■ ii. Removing paragraphs (a) and (b); and

■ iii. Adding sections 2.1, 2.2, and 2.3;

■ b. Adding paragraph (c) to section 3.1;

■ c. Revising section 3.2.1.1;

■ d. Revising paragraph (b) in section 3.2.1.2;

■ e. Revising section 3.2.2;

■ f. Revising section 3.3;

■ g. Revising paragraph (a) introductory text and paragraph (b) in section 3.3.2;

■ h. Revising section 3.3.3;

■ i. Revising the introductory text and adding paragraphs (f), (g), (h), and (i) in section 3.4.1;

■ j. Revising paragraph (a) in section 3.4.2;

■ k. Revising paragraph (a) in section 3.5;

■ l. Revising section 4.1;

■ m. Revising paragraph (a) and adding paragraph (c) in section 4.3;

■ n. Revising section 4.4.3.3;

■ o. Revising paragraph (c) of section 4.5.3.2;

■ p. Revising section 5.1;

■ q. Revising section 6.0;

■ r. Revising section 6.1;

■ s. Revising paragraph (a) in section 6.2; and

■ t. Adding section 7.0.

The additions and revisions read as follows:

Appendix A to Subpart K of Part 431—Uniform Test Method for Measuring the Energy Consumption of Distribution Transformers

* * * * *

2.0 Per-Unit Load, Reference Temperature, and Accuracy Requirements

2.1 Per-Unit Load

In conducting the test procedure in this appendix for the purpose of:

(a) Certification to an energy conservation standard, the applicable per-unit load in Table 2.1 must be used; or

(b) Making voluntary representations as provided in section 7.0 at an additional per-unit load, select the per-unit load of interest.

TABLE 2.1—PER-UNIT LOAD FOR CERTIFICATION TO ENERGY CONSERVATION STANDARDS

Distribution transformer category	Per-unit load (percent)
Liquid-immersed	50
Medium-voltage dry-type	50
Low-voltage dry-type	35

2.2 Reference Temperature

In conducting the test procedure in this appendix for the purpose of:

(a) Certification to an energy conservation standard, the applicable reference temperature in Table 2.2 must be used; or

(b) Making voluntary representations as provided in section 7.0 at an additional reference temperature, select the reference temperature of interest.

TABLE 2.2—REFERENCE TEMPERATURE FOR CERTIFICATION TO ENERGY CONSERVATION STANDARDS

Distribution transformer category	Reference temperature
Liquid-immersed	20 °C for no-load loss. 55 °C for load loss.
Medium-voltage dry-type	20 °C for no-load loss. 75 °C for load loss.
Low-voltage dry-type	20 °C for no-load loss. 75 °C for load loss.

2.3 Accuracy Requirements

(a) Equipment and methods for loss measurement must be sufficiently accurate that measurement error will be limited to the values shown in Table 2.3.

TABLE 2.3—TEST SYSTEM ACCURACY REQUIREMENTS FOR EACH MEASURED QUANTITY

Measured quantity	Test system accuracy
Power Losses	±3.0%.
Voltage	±0.5%.
Current	±0.5%.
Resistance	±0.5%.
Temperature	±1.5 °C for liquid-immersed distribution transformers, and ±2.0 °C for low-voltage dry-type and medium-voltage dry-type distribution transformers.

(b) Only instrument transformers meeting the 0.3 metering accuracy class, or better, may be used under this test method.

3.0 * * *

3.1 General Considerations

* * * * *

(c) Measure the direct current resistance (R_{dc}) of transformer windings by one of the methods outlined in section 3.3. The methods of section 3.5 must be used to correct load losses to the applicable reference temperature from the temperature at which they are measured. Observe precautions while taking measurements, such as those in section 3.4, in order to maintain measurement uncertainty limits specified in Table 2.3 of this appendix.

* * * * *

3.2.1.1 Methods

Record the winding temperature (T_{dc}) of liquid-immersed transformers as the average of either of the following:

(a) The measurements from two temperature sensing devices (for example, thermocouples) applied to the outside of the transformer tank and thermally insulated from the surrounding environment, with one located at the level of the insulating liquid and the other located near the tank bottom or at the lower radiator header if applicable; or

(b) The measurements from two temperature sensing devices immersed in the insulating liquid, with one located directly above the winding and other located directly below the winding.

3.2.1.2 Conditions

* * * * *

(b) The temperature of the insulating liquid has stabilized, and the difference between the top and bottom temperature does not exceed 5 °C. The temperature of the insulating liquid is considered stable if the top liquid temperature does not vary more than 2 °C in a 1-h period.

3.2.2 Dry-Type Distribution Transformers

Record the winding temperature (T_{dc}) of dry-type transformers as one of the following:

(a) For ventilated dry-type units, use the average of readings of four or more thermometers, thermocouples, or other suitable temperature sensors inserted within the coils. Place the sensing points of the measuring devices as close as possible to the winding conductors; or

(b) For sealed units, such as epoxy-coated or epoxy-encapsulated units, use the average of four or more temperature sensors located on the enclosure and/or cover, as close to different parts of the winding assemblies as possible; or

(c) For ventilated units or sealed units, use the ambient temperature of the test area, only if the following conditions are met:

(1) All internal temperatures measured by the internal temperature sensors must not differ from the test area ambient temperature by more than 2 °C. Enclosure surface temperatures for sealed units must not differ from the test area ambient temperature by more than 2 °C.

(2) Test area ambient temperature must not have changed by more than 3 °C for 3 hours before the test.

(3) Neither voltage nor current has been applied to the unit under test for 24 hours. In addition, increase this initial 24-hour period by any added amount of time necessary for the temperature of the transformer windings to stabilize at the level of the ambient temperature. However, this additional amount of time need not exceed 24 hours (*i.e.,* after 48 hours, the transformer windings can be assumed to have stabilized at the level of the ambient temperature. Any stabilization time beyond 48 hours is optional).

3.3 Resistance Measurement Methods

Make resistance measurements using either the resistance bridge method (section 3.3.1), the voltmeter-ammeter method (section 3.3.2) or resistance meters (section 3.3.3). In each instance when this appendix is used to test more than one unit of a basic model to determine the efficiency of that basic model, the resistance of the units being tested may be determined from making resistance measurements on only one of the units.

* * * * *

3.3.2 Voltmeter-Ammeter Method

(a) Employ the voltmeter-ammeter method only if the test current is limited to 15 percent of the winding current. Connect the transformer winding under test to the circuit shown in Figure 3.3 of this appendix.

* * * * *

(b) To perform the measurement, turn on the source to produce current no larger than 15 percent of the rated current for the winding. Wait until the current and voltage readings have stabilized and then take a minimum of four readings of voltage and current. Voltage and current readings must be taken simultaneously for each of the readings. Calculate the average voltage and average current using the readings. Determine the winding resistance R_{dc} by using equation 3–4 as follows:

$$R_{dc} = (V_{mdc}/I_{mdc}) \qquad (3\text{-}4)$$

Where:

V_{mdc} is the average voltage measured by the voltmeter V; and

I_{mdc} is the average current measured by the ammeter (A).

* * * * *

3.3.3 Resistance Meters

Resistance meters may be based on voltmeter-ammeter, or resistance bridge, or some other operating principle. Any meter used to measure a transformer's winding resistance must have specifications for resistance range, current range, and ability to measure highly inductive resistors that cover the characteristics of the transformer being tested. Also, the meter's specifications for accuracy must meet the applicable criteria of Table 2.3 in section 2.3 of this appendix.

* * * * *

3.4.1 Required Actions

The following requirements must be observed when making resistance measurements:

* * * * *

(f) Keep the polarity of the core magnetization constant during all resistance measurements.

(g) For single-phase windings, measure the resistance from terminal to terminal. The total winding resistance is the terminal-to-terminal measurement. For series-parallel windings, the total winding resistance is the sum of the series terminal-to-terminal section measurements.

(h) For wye windings, measure the resistance from terminal to terminal or from terminal to neutral. For the total winding resistance, the resistance of the lead from the neutral connection to the neutral bushing may be excluded. For terminal-to-terminal measurements, the total resistance reported is the sum of the three measurements divided by two.

(i) For delta windings, measure resistance from terminal to terminal with the delta closed or from terminal to terminal with the

delta open to obtain the individual phase readings. The total winding resistance is the sum of the three-phase readings if the delta is open. If the delta is closed, the total winding resistance is the sum of the three phase-to-phase readings times 1.5.

3.4.2 Guideline for Time Constant

(a) The following guideline is suggested for the tester as a means to facilitate the measurement of resistance in accordance with the accuracy requirements of section 2.3:

* * * * *

3.5 Conversion of Resistance Measurements

(a) Resistance measurements must be corrected from the temperature at which the winding resistance measurements were made, to the reference temperature.

* * * * *

4.0 * * *

4.1 General Considerations

The efficiency of a transformer is computed from the total transformer losses, which are determined from the measured value of the no-load loss and load loss power components. Each of these two power loss components is measured separately using test sets that are identical, except that shorting straps are added for the load-loss test. The measured quantities need correction for instrumentation losses and may need corrections for known phase angle errors in measuring equipment and for the waveform distortion in the test voltage. Any power loss not measured at the applicable reference temperature must be adjusted to that reference temperature. The measured load loss must also be adjusted to a specified output loading level if not measured at the specified output loading level. Test all distribution transformers using a sinusoidal waveform (k = 1). Measure losses with the transformer energized by a 60 Hz supply.

* * * * *

4.3 Test Sets

(a) The same test set may be used for both the no-load loss and load loss measurements provided the range of the test set encompasses the test requirements of both tests. Calibrate the test set to national standards to meet the tolerances in Table 2.3 in section 2.3 of this appendix. In addition, the wattmeter, current measuring system and voltage measuring system must be calibrated separately if the overall test set calibration is outside the tolerance as specified in section 2.3 or the individual phase angle error exceeds the values specified in section 4.5.3.

* * * * *

(c) Both load loss and no-load loss measurements must be made from terminal to terminal.

* * * * *

4.4.3.3 Correction of No-Load Loss to Reference Temperature

After correcting the measured no-load loss for waveform distortion, correct the loss to the reference temperature. For both certification to energy conservation standards and voluntary representations, if the correction to reference temperature is applied, then the core temperature of the transformer during no-load loss measurement (T_{nm}) must be determined within ±10 °C of the true average core temperature. For certification to energy conservation standards only, if the no-load loss measurements were made between 10 °C and 30 °C, this correction is not required. Correct the no-load loss to the reference temperature by using equation 4–2 as follows:

$$P_{nc} = P_{nc1}[1 + 0.00065(T_{nm} - T_{nr})] \quad (4\text{-}2)$$

Where:

P_{nc} is the no-load losses corrected for waveform distortion and then to the reference temperature;

P_{nc1} is the no-load losses, corrected for waveform distortion, at temperature T_{nm};

T_{nm} is the core temperature during the measurement of no-load losses; and

T_{nr} is the reference temperature.

* * * * *

4.5.3.2 Correction for Phase Angle Errors

* * * * *

(c) If the correction for phase angle errors is to be applied, first examine the total system phase angle ($\beta_w - \beta_v + \beta_c$). Where the total system phase angle is equal to or less than ±12 milliradians (±41 minutes), use either equation 4–4 or 4–5 to correct the measured load loss power for phase angle errors, and where the total system phase angle exceeds ±12 milliradians (±41 minutes) use equation 4–5, as follows:

$$P_{lc1} = P_{lm} - V_{lm}I_{lm}(\beta_w - \beta_v + \beta_c)\sin\varphi \quad (4\text{-}4)$$

$$P_{lc1} = V_{lm}I_{lm}\cos(\varphi + \beta_w - \beta_v + \beta_c) \quad (4\text{-}5)$$

* * * * *

5.0 * * *

5.1 Output Loading Level Adjustment

If the per-unit load selected in section 2.1 is different from the per-unit load at which the load loss power measurements were made, then adjust the corrected load loss power, P_{lc2}, by using equation 5–1 as follows:

$$P_{lc} = P_{lc2}\left[\frac{P_{os}}{P_{or}}\right]^2 = P_{lc2}L^2 \quad (5\text{-}1)$$

Where:

P_{lc} is the adjusted load loss power to the per-unit load;

P_{lc2} is as calculated in section 4.5.3.3;

P_{or} is the rated transformer apparent power (name plate);

P_{os} is the adjusted rated transformer apparent power, where $P_{os} = P_{or}L$; and

L is the per-unit load, *e.g.,* if the per-unit load is 50 percent then ''L'' is 0.5.

* * * * *

6.0 Test Equipment Calibration and Certification

Maintain and calibrate test equipment and measuring instruments, maintain calibration records, and perform other test and measurement quality assurance procedures according to the following sections. The calibration of the test set must confirm the accuracy of the test set to that specified in section 2.3, Table 2.3 of this appendix.

6.1 Test Equipment

The party performing the tests must control, calibrate, and maintain measuring and test equipment, whether or not it owns the equipment, has the equipment on loan, or the equipment is provided by another party. Equipment must be used in a manner which assures that measurement uncertainty is known and is consistent with the required measurement capability.

6.2 Calibration and Certification

* * * * *

(a) Identify the measurements to be made, the accuracy required (section 2.3) and select the appropriate measurement and test equipment;

* * * * *

7.0 Test Procedure for Voluntary Representations

Follow sections 1.0 through 6.0 of this appendix using the per-unit load and/or reference temperature of interest for voluntary representations of efficiency, and corresponding values of load loss and no-load loss at additional per-unit load and/or reference temperature. Representations made at a per-unit load and/or reference temperature other than those required to comply with the energy conservation standards at § 431.196 must be in addition to, and not in place of, a representation at the required DOE settings for per-unit load and reference temperature. As a best practice, the additional settings of per-unit load and reference temperature should be provided with the voluntary representations.

[FR Doc. 2021–19366 Filed 9–13–21; 8:45 am]

BILLING CODE 6450–01–P

Reader Aids

Federal Register

Vol. 86, No. 175

Tuesday, September 14, 2021

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**

Presidential Documents

Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**

Other Services

Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

48885–49228 1
49229–49460 2
49461–49902 3
49903–50212 7
50213–50432 8
50433–50602 9
50603–50836 10
50837–50980 13
50981–51256 14

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10241 48885
10242 49887
10243 49891
10244 49893
10245 49895
10246 49897
10247 49899
10248 49901
10249 50433
10250 50437
10251 50981
10252 50983

Executive Orders:
14040 50439
14041 50443
14042 50985
14043 50989

Administrative Orders:
Memorandums:
Memorandum of August 27, 2001 49459
Memorandum of September 7, 2021 50991
Notices:
Notice of September 7, 2021 50601
Notice of September 9, 2021 50835
Presidential Determinations:
No. 2021–12 of September 7, 2021 50831

5 CFR

890 49461

6 CFR

5 50603

Proposed Rules:
5 49490

7 CFR

275 49229
800 49466
945 50837
1146 48887
1147 48887
1735 50604
1737 50604

Proposed Rules:
946 49930

8 CFR

212 50839

9 CFR

Proposed Rules:
Ch. III 49491

10 CFR

431 51230

Proposed Rules:
429 49140
430 .....49140, 49261
431 .....49140, 49266
707 49932

12 CFR

204 50213
612 50956
1070 48900

Proposed Rules:
615 49496
1006 48918

13 CFR

121 50214
123 50214

14 CFR

39 .....48902, 49470, 49903, 49904, 49907, 49909, 49912, 49915, 50219, 50222, 50224, 50226, 50230, 50232, 50235, 50237, 50239, 50242, 50449, 50451, 50610
71 .....48905, 49917, 49918, 49919, 50244, 50245, 50247, 50248, 50250, 50453, 50614, 50842, 50843
95 50615
97 .....50844, 50846
1204 50624

Proposed Rules:
39 .....48919, 49937, 50289, 50291, 50484, 50485, 50487, 51022, 51026, 51029, 51033, 51035, 51038, 51042
71 .....48921, 49939, 50493, 50686, 50862

15 CFR

4 49920

16 CFR

642 50848
698 50848

18 CFR

1304 50625

19 CFR

Proposed Rules:
111 50794

21 CFR

73 49230
610 49922
1141 50854

Proposed Rules:
73 50495

172 50496
1308 49267

22 CFR

62 50993

25 CFR

1187 50251

26 CFR

31 50637
301 49923
Proposed Rules:
1 50295
31 50687
53 50295
54 50295
301 50295

29 CFR

1402 50855
1977 49472

30 CFR

Proposed Rules:
56 50496
57 50496
77 50496

33 CFR

100 ....49234, 49236, 49476, 50856, 50994
165 ....48906, 49239, 49241, 49244, 49924, 50260, 50454, 50996, 50998
Proposed Rules:
100 ....49941, 49943
117 48923

34 CFR

600 49478

37 CFR

Proposed Rules:
223 49273

38 CFR

3 51000
17 50856
Proposed Rules:
3 50513

40 CFR

9 49246
52 ....48908, 49246, 49248, 49249, 49252, 49480, 49925, 50456, 50459, 50643, 50645
62 49482
174 51001
261 50647
281 ....50470, 51004
282 ....49253, 50470, 51004
300 ....50477, 51010
721 49246
Proposed Rules:
52 ....49100, 49278, 49497, 49500
60 50296
62 49501
63 50296
81 49100
281 ....50522, 51044
282 ....49283, 50522, 51044
300 ....50515, 51045

41 CFR

Proposed Rules:
300–3 50863
301–10 50863
301–51 50863
302–16 50863

42 CFR

402 50263
403 50263
411 50263
412 50263
422 50263
423 50263
460 50263
483 50263
488 50263
493 50263

43 CFR

2 49927

44 CFR

77 50653
78 50653
79 50653
80 50653
201 50653
206 50653

46 CFR

501 50679
Proposed Rules:
11 48925
401 51047
404 51047

47 CFR

25 49484
79 51013
Proposed Rules:
25 48942
52 51081
64 48952
73 48942
76 48942

48 CFR

570 48915
Proposed Rules:
501 50689
502 50689
511 50689
539 50689
552 50689
570 50689

49 CFR

Proposed Rules:
531 ....49602, 51092
533 ....49602, 51092
536 ....49602, 51092
537 ....49602, 51092

50 CFR

17 50264
300 48916
622 ....50287, 50861, 51014
635 51016
648 49929
660 51017
679 ....48917, 49259, 49260
Proposed Rules:
17 ....48953, 49945, 49985, 49989
22 51094
217 50304
648 ....48968, 50320, 50866
660 48969
697 49284

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List September 2, 2021

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1*

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.