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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2021–0161]

RIN 3150–AK69

List of Approved Spent Fuel Storage Casks: TN Americas LLC, TN–68 Dry Storage Cask System, Certificate of Compliance No. 1027, Renewal of Initial Certificate and Amendment No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of February 22, 2022, for the direct final rule that was published in the **Federal Register** on December 9, 2021. This direct final rule amended the TN Americas LLC, TN–68 Dry Storage Cask System listing in the ''List of approved spent fuel storage casks'' to renew, for an additional 40 years, the initial certificate and Amendment No. 1 of Certificate of Compliance No. 1027.

DATES: The effective date of February 22, 2022, for the direct final rule published December 9, 2021 (86 FR 69978), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2021–0161 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0161. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The final amendment to the certificate of compliance, final changes to the technical specifications, and final safety evaluation report can be viewed in ADAMS under Accession No. ML22004A189.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Solomon Sahle, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3781, email: *Solomon.Sahle@nrc.gov.*

SUPPLEMENTARY INFORMATION: On December 9, 2021 (86 FR 69978), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to revise the TN Americas LLC, TN–68 Dry Storage Cask System listing in the ''List of approved spent fuel storage casks'' to renew, for an additional 40 years, the initial certificate and Amendment No. 1 of Certificate of Compliance No. 1027. The renewal of the initial certificate and Amendment No. 1 revises the certificate of compliance's conditions and technical specifications to address aging management activities related to the structures, systems, and components of the dry storage system to ensure that these will maintain their intended functions during the period of extended storage operations. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on February 22, 2022. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated: January 18, 2022.

For the Nuclear Regulatory Commission.

Angella M. Love Blair,

Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–01209 Filed 1–21–22; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 127

RIN 3245–AG75

Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business Certification; Establishment of Effective Date

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Final rule; establishment of effective date.

SUMMARY: This action establishes the effective date of regulations added by SBA in a final rule published in the **Federal Register** on May 11, 2020, ''Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business Certification.''

DATES: The effective date of 13 CFR 127.355, added by the rule published on May 11, 2020, at 85 FR 27650, is January 20, 2022, and is applicable beginning May 3, 2021.

FOR FURTHER INFORMATION CONTACT: Kelly Jackson, Office of Government Contracting and Business Development, 409 Third Street SW, Washington, DC 20416; (202) 205–0108; *kelly.jackson@sba.gov.*

SUPPLEMENTARY INFORMATION: On May 11, 2020, SBA published a final rule titled, ''Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business Certification'' (85 FR 27650). The final rule revised part 127 of SBA's regulations, ''Women-Owned Small Business Federal Contract Program'', to implement a statutory requirement to certify Women-Owned Small Business

Concerns and Economically-Disadvantaged Women-Owned Small Business Concerns. A set of corrections was published in the **Federal Register** on January 14, 2021 (86 FR 2960). This document establishes the effective date for § 127.355, ''How will SBA ensure that approved third-party certifiers are meeting the requirements?'', a section that was added to part 127 by the final rule.

At the time the final rule was published, the effective date of § 127.355 was delayed indefinitely because this regulation implicated the Paperwork Reduction Act. Under the Paperwork Reduction Act, SBA was required to obtain approval from the Office of Management and Budget for an information collection titled, ''Certification for the Women-Owned Small Business Federal Contract Program'' (OMB Control No. 3245–0374). The Office of Management and Budget approved the information collection on May 3, 2021. Therefore, SBA hereby establishes an effective date of May 3, 2021, for 13 CFR 127.355.

Antonio Doss,

Deputy Associate Administrator, Government Contracting and Business Development.

[FR Doc. 2022–00603 Filed 1–20–22; 12:30 pm]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31410; Amdt. No. 3992]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective January 24, 2022. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 24, 2022.

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

For Examination

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

For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice

and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on January 7, 2022.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
24–Feb–22 ...	MS	Yazoo City	Yazoo County	1/0856	12/14/21	RNAV (GPS) RWY 17, Orig-A.
24–Feb–22 ...	TN	Sevierville	Gatlinburg-Pigeon Forge	1/2717	12/16/21	RNAV (GPS) RWY 10, Orig-A.
24–Feb–22 ...	TN	Sevierville	Gatlinburg-Pigeon Forge	1/2719	12/16/21	VOR/DME RWY 10, Amdt 6A.

[FR Doc. 2022–01256 Filed 1–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31409; Amdt. No. 3991]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective January 24, 2022. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 24, 2022.

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

For Examination

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

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

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

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

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

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

Lists of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on January 7, 2022.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 24 March 2022

Dothan, AL, KDHN, ILS OR LOC RWY 14, Amdt 2
Dothan, AL, KDHN, ILS OR LOC RWY 32, Amdt 10
Dothan, AL, KDHN, RNAV (GPS) RWY 14, Amdt 3
Dothan, AL, KDHN, VOR OR TACAN RWY 14, Amdt 5
Dothan, AL, KDHN, VOR OR TACAN–A, Amdt 14
Rogers, AR, KROG, ILS OR LOC RWY 20, Amdt 5
Rogers, AR, KROG, RNAV (GPS) RWY 2, Amdt 1A
Rogers, AR, KROG, RNAV (GPS) RWY 20, Amdt 1C
Show Low, AZ, KSOW, RNAV (GPS) RWY 25, Amdt 3A
Tucson, AZ, KTUS, LOC BC RWY 29R, Amdt 8C, CANCELLED
Santa Ynez, CA, KIZA, RNAV (GPS) RWY 8, Amdt 1
Santa Ynez, CA, KIZA, RNAV (GPS)–A, Amdt 1
Santa Ynez, CA, KIZA, VOR RWY 8, Orig
Santa Ynez, CA, KIZA, VOR OR GPS–B, Amdt 7F, CANCELLED
Nucla, CO, Hopkins Field, NUCLA TWO, Graphic DP
Nucla, CO, Hopkins Field, Takeoff Minimums and Obstacle DP, Orig-A
Belle Plaine, IA, KTZT, VOR–A, Amdt 1B, CANCELLED
Vinton, IA, Vinton Veterans Meml Airpark, Takeoff Minimums and Obstacle DP, Amdt 2
Lewiston, ID, KLWS, RNAV (RNP) RWY 30, Amdt 1
Covington, KY, KCVG, ILS OR LOC RWY 9, Amdt 18C
Covington, KY, KCVG, ILS OR LOC RWY 18L, Amdt 7D
Covington, KY, KCVG, RNAV (RNP) Z RWY 36R, Orig-D
Fulton, KY, 1M7, RNAV (GPS) RWY 9, Orig
Fulton, KY, Fulton, Takeoff Minimums and Obstacle DP, Orig
Old Town, ME, Dewitt Fld/Old Town Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Detroit, MI, Willow Run, Takeoff Minimums and Obstacle DP, Amdt 11
Sidney, MT, KSDY, RNAV (GPS) RWY 19, Amdt 3
Salem, OH, 38D, RNAV (GPS)–A, Orig
Salem, OH, 38D, VOR OR GPS–A, Amdt 1A, CANCELLED
Alva, OK, Alva Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3
Columbia, SC, KCAE, ILS OR LOC RWY 5, Amdt 2
Columbia, SC, KCAE, ILS OR LOC RWY 11, ILS RWY 11 (CAT II), ILS RWY 11 (CAT III), Amdt 16
Columbia, SC, KCAE, ILS OR LOC RWY 29, Amdt 4
Columbia, SC, KCAE, RNAV (GPS) RWY 11, Amdt 2
Yankton, SD, KYKN, RNAV (GPS) RWY 13, Amdt 1A
Yankton, SD, KYKN, VOR RWY 13, Amdt 4A
Terrell, TX, Terrell Muni, Takeoff Minimums and Obstacle DP, Amdt 1A
Moses Lake, WA, KMWH, RNAV (GPS) Y RWY 4, Amdt 1D
Moses Lake, WA, KMWH, RNAV (GPS) Y RWY 32R, Amdt 3D
Moses Lake, WA, KMWH, RNAV (RNP) Z RWY 4, Orig-B
Moses Lake, WA, KMWH, RNAV (RNP) Z RWY 22, Orig-B
Moses Lake, WA, KMWH, RNAV (RNP) Z RWY 32R, Orig-B

Rescinded: On December 28, 2021 (86 FR 73675), the FAA published an Amendment

in Docket No. 31404 Amdt No. 3987, to Part 97 of the Federal Aviation Regulations under section 97.37. The following entry for Jackson, OH, effective January 27, 2022, is hereby rescinded in its entirety:

Jackson, OH, James A Rhodes, Takeoff Minimums and Obstacle DP, Amdt 4A

[FR Doc. 2022–01255 Filed 1–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

[Docket No. DHS–2022–0003]

RIN 1601–ZA21

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of temporary travel restrictions.

SUMMARY: This Notification announces the decision of the Secretary of Homeland Security (''Secretary''), after consulting with interagency partners, to temporarily restrict travel by certain noncitizens into the United States at land ports of entry, including ferry terminals (''land POEs'') along the United States-Mexico border. These restrictions only apply to noncitizens who are neither U.S. nationals nor lawful permanent residents (''noncitizen non-LPRs''). Under the temporary restrictions, DHS will allow processing for entry into the United States of only those noncitizen non-LPRs who are fully vaccinated against COVID–19 and can provide proof of being fully vaccinated against COVID–19 upon request. The restrictions provide for limited exceptions, largely consistent with the limited exceptions currently available with respect to COVID–19 vaccination in the international air travel context. Unlike past actions of this type, this Notification does not contain an exception for essential travel.

DATES: These restrictions go into effect at 12 a.m. Eastern Standard Time (EST) on January 22, 2022, and will remain in effect until 11:59 p.m. Eastern Daylight Time (EDT) on April 21, 2022, unless amended or rescinded prior to that time.

FOR FURTHER INFORMATION CONTACT: Petra Horne, Office of Field Operations, U.S. Customs and Border Protection (CBP), 202–325–1517.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, the Department of Homeland Security (''DHS'') published a Notification of its decision to temporarily limit the travel of certain noncitizen non-LPRs into the United States at land POEs along the United States-Mexico border to ''essential travel,'' as further defined in that document.[1] The March 24, 2020 Notification described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak, continued transmission, and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico posed a ''specific threat to human life or national interests.'' Under the March 24, 2020 Notification, DHS continued to allow certain categories of travel, described as ''essential travel.'' Essential travel included travel to attend educational institutions, travel to work in the United States, travel for emergency response and public health purposes, and travel for lawful cross-border trade. Essential travel also included travel by U.S. citizens and lawful permanent residents returning to the United States.

From March 2020 through October 2021, in consultation with interagency partners, DHS reevaluated and ultimately extended the restrictions on non-essential travel each month. The most recent action of this type, published on October 21, 2021, continued the restrictions until 11:59 p.m. EST on January 21, 2022.[2] In that document, DHS acknowledged that notwithstanding the continuing threat to human life or national interests posed by COVID–19—as well as recent increases in case levels, hospitalizations, and deaths due to the Delta variant—COVID–19 vaccines are effective against Delta and other known COVID–19 variants. These vaccines protect people from becoming infected with and severely ill from COVID–19 and significantly reduce the likelihood of hospitalization and death. DHS also acknowledged the White House COVID–19 Response Coordinator's September 2021 announcement regarding the United States' plans to revise standards and procedures for incoming international air travel to enable the air travel of travelers fully vaccinated against COVID–19 beginning in early November 2021.[3] DHS further stated that the Secretary intended to do the same with respect to certain travelers seeking to enter the United States from Mexico and Canada at land POEs to align the treatment of different types of travel and allow those who are fully vaccinated against COVID–19 to travel to the United States for non-essential reasons.[4]

On October 29, 2021, following additional announcements regarding changes to the international air travel policy by the President of the United States and the Centers for Disease Control and Prevention (''CDC''),[5] DHS announced that beginning November 8, 2021, non-essential travel of noncitizen non-LPRs would be permitted through land POEs, provided that the traveler is fully vaccinated against COVID–19 and can provide proof of full COVID–19 vaccination status.[6] DHS also

[1] 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published a Notification of its decision to temporarily limit the travel of certain noncitizen non-LPR persons into the United States at land POEs along the United States-Canada border to ''essential travel,'' as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

[2] *See* 86 FR 58218 (Oct. 21, 2021) (extending restrictions for the United States-Canada border); 86 FR 58216 (Oct. 21, 2021) (extending restrictions for the United States-Mexico border).

[3] *See* Press Briefing by Press Secretary Jen Psaki (Sept. 20, 2021), *https://www.whitehouse.gov/briefing-room/press-briefings/2021/09/20/press-briefing-by-press-secretary-jen-psaki-september-20-2021/* (''As was announced in a call earlier today . . . [w]e—starting in . . . early November [will] be putting in place strict protocols to prevent the spread of COVID–19 from passengers flying internationally into the United States by requiring that adult foreign nationals traveling to the United States be fully vaccinated.'').

[4] *See* 86 FR 58218; 86 FR 58216.

[5] Changes to requirements for travel by air were implemented by, *inter alia,* Presidential Proclamation 10294 of October 25, 2021, 86 FR 59603 (Oct. 28, 2021) (Presidential Proclamation), and a related CDC order, 86 FR 61224 (Nov. 5, 2021) (CDC Order). *See also* CDC, *Requirement for Proof of Negative COVID–19 Test or Recovery from COVID–19 for All Air Passengers Arriving in the United States, https://www.cdc.gov/quarantine/pdf/Global-Testing-Order-10-25-21-p.pdf* (Oct. 25, 2021); *Requirement for Airlines and Operators to Collect Contact Information for All Passengers Arriving into the United States, https://www.cdc.gov/quarantine/pdf/CDC-Global-Contact-Tracing-Order-10-25-2021-p.pdf* (Oct. 25, 2021). CDC later amended its testing order following developments related to the Omicron variant. *See* CDC, *Requirement for Proof of Negative COVID–19 Test Result or Recovery from COVID–19 for All Airline Passengers Arriving into the United States, https://www.cdc.gov/quarantine/pdf/Amended-Global-Testing-Order_12-02-2021-p.pdf* (Dec. 2, 2021).

[6] *See, e.g.,* DHS, Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals, *https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals* (updated Nov. 23, 2021). *See also* 86 FR 72842 (Dec. 23, 2021) (describing the announcement with respect to Canada); 86 FR 72843 (Dec. 23, 2021) (describing the announcement with respect to Mexico).

announced that beginning in January 2022, inbound noncitizen non-LPRs traveling to the United States via land POEs—whether for essential or non-essential reasons—would be required to be fully vaccinated against COVID–19 and provide proof of full COVID–19 vaccination status.[7]

DHS has continued to monitor and respond to the COVID–19 pandemic. On December 14, 2021, at DHS's request, CDC provided a memorandum to DHS describing the current status of the COVID–19 public health emergency. The CDC memorandum warned of ''case counts and deaths due to COVID–19 continuing to increase around the globe and the emergence of new and concerning variants,'' and emphasized that ''[v]accination is the single most important measure for reducing risk for SARS–CoV–2 transmission and avoiding severe illness, hospitalization, and death.'' [8] Given these considerations, CDC recommended that proof of COVID–19 vaccination requirements be expanded to cover both essential and non-essential noncitizen non-LPR travelers.

According to CDC, studies indicate that individuals vaccinated against COVID–19 are five times less likely to be infected with COVID–19 and more than eight times less likely to require hospitalization than those who are unvaccinated. Further, unvaccinated people are 14 times more likely to die from COVID–19 than those who are vaccinated. Such increases in hospitalization and death rates strain critical healthcare resources, which in some parts of the United States may be in short supply.[9] As CDC wrote, ''proof of vaccination of travelers helps protect the health and safety of both the personnel at the border and other travelers, as well as U.S. destination communities. Border security and transportation security work is part of the nation's critical infrastructure and presents unique challenges for ensuring the health and safety of personnel and travelers.''

CDC's memorandum also acknowledged that because of operational considerations, requirements at land POEs may differ from those implemented for air travel. CDC recognized the operational challenges, as described by DHS, with imposing a testing requirement at land POEs, and noted key differences between land travel and air travel with respect to the volume of travel, predictability, and infrastructure involved.[10] In the absence of required pre-entry COVID–19 testing, CDC described a proof of COVID–19 vaccination requirement as ''essential as a matter of public health.'' [11]

In a January 14, 2022 update, also at the request of DHS, CDC confirmed its prior recommendation. Specifically, CDC noted the ''rapid increase'' of COVID–19 cases across the United States that have contributed to high levels of community transmission and increased rates of new hospitalizations and deaths. According to CDC, between January 5 and January 11, 2022, the seven-day average for new hospital admissions of patients with confirmed COVID–19 increased by 24 percent over the prior week, and the seven-day average for new COVID–19-related deaths rose to 2,991, an increase of 33.7 percent compared to the prior week. CDC emphasized that this increase has exacerbated the strain on the United States' healthcare system and again urged that ''[v]accination of the broadest number of people best protects all individuals and preserves the United States' critical infrastructure, including healthcare systems and essential workforce.'' CDC thus urged ''the most comprehensive requirements possible for proof of vaccination'' and specifically recommended against exceptions for specific worker categories as a public health matter.[12]

DHS has conferred with interagency partners, taken into account all relevant factors, including economic considerations and CDC's public health input, and concludes that a broad COVID–19 vaccination requirement at land POEs is necessary and appropriate. In particular, DHS notes that, according to the information provided by CDC, those who are not fully vaccinated against COVID–19 have proven to be more likely to be infected by COVID–19, to spread COVID–19 to others, to suffer severe symptoms, and to require the use of scarce hospital resources. DHS acknowledges that in past actions of this type, it has continued to allow essential travel by certain noncitizen non-LPRs who are not fully vaccinated against COVID–19. The assessment has, however, changed in light of the following two factors: (1) The rapid increase of COVID–19 cases; and (2) the increasing availability of COVID–19 vaccines.

With respect to the increasing availability of COVID–19 vaccines, at this point, COVID–19 vaccines—which according to CDC are ''the single most important measure'' for responding to COVID–19 [13]—are widely available and have been increasingly available for months. In Canada, 77.1 percent of the entire population is now fully vaccinated against COVID–19, while 87.8 percent of individuals 12 years and older are fully vaccinated against COVID–19.[14] In Mexico, 55.9 percent of the population is fully vaccinated against COVID–19,[15] while as of October 2021, 72 percent of those living in border regions were fully vaccinated against COVID–19.[16] In October 2021, DHS announced its intention to expand the temporary travel restrictions applicable to land POEs by applying the COVID–19 vaccination requirement to those traveling for essential reasons, thus recognizing the importance of fair notice and allowing ample time for noncitizen non-LPR essential travelers to get fully vaccinated against COVID–19. For these reasons, DHS believes that

[7] *See* DHS, DHS Releases Details for Fully Vaccinated, Non-Citizen Travelers to Enter the U.S. at Land and Ferry Border Crossings, *https://www.dhs.gov/news/2021/10/29/dhs-releases-details-fully-vaccinated-non-citizen-travelers-enter-us-land-and-ferry* (Oct. 29, 2021); DHS, Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals, *https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals* (updated Nov. 23, 2021); *see also* DHS, Frequently Asked Questions: Guidance for Travelers to Enter the U.S., *https://www.dhs.gov/news/2021/10/29/frequently-asked-questions-guidance-travelers-enter-us* (updated Nov. 23, 2021).

[8] *See* Memorandum from CDC to CBP re Public Health Recommendation for Proof of COVID–19 Vaccination at U.S. Land Borders (Dec. 14, 2021).

[9] At the time of the memorandum, CDC noted that the Delta variant was still the predominant variant in the United States, but that ongoing research indicated that the Omicron variant may spread more easily than the original SARS–CoV–2 virus. CDC noted that further studies are underway to assess concerns about whether the Omicron variant may have increased transmissibility, confer resistance to therapeutics, or partially escape infection- or vaccine-induced immunity.

[10] CBP assesses that a testing option is not operationally feasible given the significant number of land border crossers that go back on forth on a daily, or near-daily basis, for work or school. A negative COVID–19 test requirement would mean that such individuals would have to get tested just about every day. This is not currently feasible, given the cost and supply constraints, particularly in smaller rural locations. Further, CBP reports additional operational challenges associated with verifying test results, given the wide variation in documentation.

[11] *See* Memorandum from CDC to CBP (Dec. 14, 2021).

[12] Memorandum from CDC to CBP re Public Health Recommendation for Proof of COVID–19 Vaccination at U.S. Land Borders—Addendum (Jan. 18, 2022).

[13] *See* Memorandum from CDC to CBP (Dec. 14, 2021).

[14] Canadian statistics may be found at: *https://health-infobase.canada.ca/covid-19/vaccination-coverage/* (Jan. 17, 2022).

[15] Mexican statistics may be found at: *https://ourworldindata.org/covid-vaccinations?country=MEX* (Jan. 17, 2022).

[16] Government of Mexico briefing for the NSC-led Mexico-U.S. International Travel Working Group, October 2021.

it is now necessary and appropriate to align COVID–19 vaccine restrictions at land POEs to current U.S. government policy governing incoming international air travel.[17]

Moreover, COVID–19 cases continue to increase rapidly across the United States, as described below. This surge is currently driven by the Omicron variant, which CDC's Nowcast model projects may account for approximately 98.3 percent of cases.[18] On January 5, 2022, 705,264 new COVID–19 cases were reported, more than double the peak in January 2021. Communities across the United States are now experiencing high levels of community transmission, and hospitalizations and deaths are also on the rise.[19] This surge underscores the need for the policy that DHS previously announced, and is an important reason why DHS, in consultation with interagency partners, is declining to implement broad exceptions for certain categories of travelers.

In reaching this conclusion, DHS weighed the concerns of industry and, in particular, firms employing or relying on long-haul truck drivers and persons engaged in freight rail operations.[20] DHS carefully considered alternative approaches, including exceptions for these categories of workers. As a public health matter, CDC strongly discouraged additional exceptions, particularly in light of the current increase in COVID–19 cases and related resulting strains on the healthcare system. Even if such workers do not engage in extended interaction with others, they still engage in activities that involve contact with others, thereby increasing the risk of contributing to community spread of COVID–19. Such workers also may enter the United States after contracting COVID–19, become seriously ill after arrival, and require scarce healthcare resources as a result. Given CDC's recommendation, and after extensive consultation with interagency partners, DHS has determined that such activities do not warrant an exception from these restrictions because these persons still present a public health risk. A COVID–19 vaccination requirement at land POEs helps protect the health and safety of the personnel at the border, other travelers, and the U.S. communities where these persons may be traveling and spending time among the public. A COVID–19 vaccination requirement for these individuals also reduces burdens on local healthcare resources in U.S. communities. This approach aligns the U.S. COVID–19 policies applicable to land POEs with air travel restrictions that require noncitizen non-LPRs traveling by air to the United States for both essential and non-essential reasons to be fully vaccinated against COVID–19 and provide related proof of vaccination, with very few exceptions. This approach also aligns with new travel restrictions imposed by Canada on January 15, 2022, which similarly impose a COVID–19 vaccination requirement on cross-border travel, with no exception for truck drivers or freight rail operators.[21]

DHS also acknowledges concerns among some industry stakeholders that this policy, however necessary to protect the American public, could disrupt cross-border economic activity. In consultation with interagency partners, DHS has carefully considered these concerns. DHS has conferred with interagency partners and determined that these concerns are outweighed by the competing public health concerns and the wide availability of COVID–19 vaccines, coupled with the growing body of evidence that employment-related COVID–19 vaccine mandates result in high levels of COVID–19 vaccine acceptance among employees.[22] A recent White House analysis highlights the ways in which COVID–19 vaccine requirements that cover whole industries or sectors can be particularly effective in persuading employees to become fully vaccinated against COVID–19.[23] The incentive effects of industry-wide requirements, as well as the introduction of a range of other policies intended to incentivize vaccination against COVID–19, reduce the likelihood of a significant disruption in cross-border economic activity, while protecting public health.[24]

DHS acknowledges that some persons engaged in essential travel, in particular long-haul truck drivers and persons engaged in freight rail operations, do not engage in work-related activities that involve extended exposure to others in congregate settings. However, there are also important differences between (1) commercial truck, rail, and ferry operators; and (2) air crews and sea crew members traveling pursuant to a C–1 or D nonimmigrant visa. In the international air travel context, under

[17] For a discussion of the current U.S. government policy regarding international air travel, *see, supra,* n. 45.

[18] Variant Proportions, Centers for Disease Control and Prevention, *https://covid.cdc.gov/covid-data-tracker/#variant-proportions* (week ending Jan. 8, 2022).

[19] COVID Data Tracker Weekly Review: Interpretive Summary for the Centers for Disease Control and Prevention, *COVID Data Tracker Weekly Review: Interpretive Summary for January 7, 2022, https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html* (Jan. 7, 2022).

[20] DHS acknowledges that past actions of this type exempted freight rail, but DHS notes that the considerations applicable to other forms of travel previously designated as essential apply equally in the freight rail context.

[21] Public Health Agency of Canada website *Requirements for Truckers entering Canada in effect as of January 15, 2022, https://www.Canada.ca/en/public-health/news/2022/01/requirements-for-truckers-entering-canada-in-effect-as-of-january-15-2022.html;* Public Health Agency of Canada website: *Minimizing the Risk of Exposure to COVID–19 in Canada Order (Prohibition of Entry into Canada from the United States),* Section 10 of order is the provision that went into place on 15 January 2022, *https://orders-in-council.canada.ca/attachment.php?attach=41322&lang=en.*

[22] *See, e.g.,* David Koenig, Associated Press, American, Alaska, JetBlue join growing list of airlines requiring employees to be vaccinated against COVID–19, *https://www.usatoday.com/story/travel/airline-news/2021/10/02/american-joins-list-airlines-requiring-employee-vaccinations/5968626001/* (Oct. 2, 2021) (''United Airlines took an early and tough stance to require vaccination. United said Thursday that 320 of its 67,000 U.S. employees faced termination for not getting vaccinated or seeking a medical or religious exemption by a deadline earlier in the week.''); Novant Health, Novant Health update on mandatory COVID–19 vaccination program for employees, *https://www.novanthealth.org/home/about-us/newsroom/press-releases/newsid33987/2576/novant-health-update-on-mandatory-covid-19-vaccination-program-for-employees.aspx* (Sept. 21, 2021) (''Today, 98.6% of more than 35,000 team members are compliant with Novant Health's mandatory COVID–19 vaccination program.''); Houston Methodist, Houston Methodist Requires COVID–19 Vaccine for Credentialed Doctors, *https://www.houstonmethodist.org/leading-medicine-blog/articles/2021/jun/houston-methodist-requires-covid-19-vaccine-for-credentialed-doctors/* (June 8, 2021) (''As of June 1, more than 99% of the system's 26,000 employees and physicians have received the vaccine'' following issuance of a vaccine mandate in April 2021); Alison Kosik, CNN Business, 96% of Tyson's Active Workers are Vaccinated, CNN (Oct. 26, 2021), *https://www.cnn.com/2021/10/26/business/tyson-covid-vaccine/index.html* (''Tyson's President and CEO Donnie King said in a blog post 'we couldn't be happier to say that, as of today, over 96% of our active team members are vaccinated—or nearly 60,000 more than when we made the announcement on August 3.''). *See also generally* Dave Muoio, Fierce Healthcare, How many employees have hospitals lost to vaccine mandates? Here are the numbers so far, *https://www.fiercehealthcare.com/hospitals/how-many-employees-have-hospitals-lost-to-vaccine-mandates-numbers-so-far* (last updated Jan. 5, 2022) (collecting examples).

[23] *See* White House Report: Vaccination Requirements Are Helping Vaccinate More People, Protect Americans from COVID–19, and Strengthen the Economy (Oct. 7, 2021).

[24] On October 30, 2021, the Government of Canada imposed a separate domestic mandate on federally regulated railways, and their rail crew and track employees, along with air and marine operators. Each organization is required to have a process for employee attestation of their vaccination status; provide a description of consequences for employees who do not comply or who falsify information; and meet standards consistent with the approach taken by the Government of Canada for the Core Public Administration. *See* Transport Canada, *Mandatory COVID–19 vaccination requirements for federally regulated transportation employees and travellers, https://www.canada.ca/en/transport-canada/news/2021/10/mandatory-covid-19-vaccination-requirements-for-federally-regulated-transportation-employees-and-travellers.html* (updated Oct. 30, 2021).

the Presidential Proclamation 10294 of October 25, 2021[25] (''the Presidential Proclamation''), as implemented by CDC's Amended Order Implementing Presidential Proclamation on Advancing the Safe Resumption of Global Travel During the COVID–19 Pandemic[26] and Technical Instructions[27] (''the CDC Order''), commercial air crews are excepted from COVID–19 vaccination requirements only if they follow industry standard protocols for the prevention of COVID–19 as set forth in relevant Safety Alerts for Operators (''SAFO'') issued by the Federal Aviation Administration.[28] SAFO 20009 includes a range of measures for air crew to protect their health and the health of others. Sea crew members traveling pursuant to a C–1 or D nonimmigrant visa are similarly excepted from international air travel COVID–19 vaccine requirements only if they adhere to all industry standard protocols for the prevention of COVID–19, as set forth in relevant CDC guidance for crew member health.[29] Importantly, unvaccinated noncitizen mariners must take a predeparture COVID–19 test within one day of travel and show a negative result prior to boarding a plane, attest that they will self-quarantine upon arrival in the United States, and have access to shipboard quarantine options as needed.[30] Currently, commercial truck drivers and freight rail and ferry operators are not subject to similar industry-wide requirements. They are therefore not amenable to parallel treatment at this time.

DHS, in consultation with its interagency partners, also has considered the operational effect of these requirements. While these changes potentially bring risk of increased wait times at land POEs in the passenger and commercial environments and delays in cargo shipments if vaccinated truck drivers and persons engaged in freight rail operations are unavailable, DHS projects minimal, short-term operational impacts as travelers become familiar with the new requirements. The enforcement of these requirements will mirror the enforcement practices implemented for non-essential travel restrictions on November 8, 2021 which yielded minimal operational disruptions. This assessment is based in part on observations from the implementation of the November 8, 2021, Title 19 restrictions and on the successful implementation of similar requirements by the Canadian government on January 15, 2022.

Notice of Action

Following consultation with CDC and other interagency partners, and after having considered and weighed the relevant factors, I have determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico, including the associated burden on already stressed healthcare resources, poses an ongoing ''specific threat to human life or national interests.'' Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[31] I have determined, in consultation with interagency partners, that land POEs along the United States-Mexico border will continue to suspend normal operations and will allow processing for entry into the United States of only those noncitizen non-LPRs who are ''fully vaccinated against COVID–19'' and can provide ''proof of being fully vaccinated against COVID–19'' upon request, as those terms are defined under the Presidential Proclamation and CDC Order. This action does not apply to U.S. citizens, U.S. nationals, lawful permanent residents of the United States, or American Indians who have a right by statute to pass the borders of, or enter into, the United States. In addition, I hereby authorize exceptions to these restrictions for the following categories of noncitizen non-LPRs:[32]

- Certain categories of persons on diplomatic or official foreign government travel as specified in the CDC Order;
- persons under 18 years of age;
- certain participants in certain COVID–19 vaccine trials as specified in the CDC Order;
- persons with medical contraindications to receiving a COVID–19 vaccine as specified in the CDC Order;
- persons issued a humanitarian or emergency exception by the Secretary of Homeland Security;
- persons with valid nonimmigrant visas (excluding B–1 [business] or B–2 [tourism] visas) who are citizens of a country with limited COVID–19 vaccine availability, as specified in the CDC Order;
- members of the U.S. Armed Forces or their spouses or children (under 18 years of age) as specified in the CDC Order; and,
- persons whose entry would be in the U.S. national interest, as determined by the Secretary of Homeland Security.

In administering such exceptions, DHS will not require the Covered Individual Attestation currently in use by CDC for noncitizens who are nonimmigrants seeking to enter the United States by air travel, or similar form, but DHS may, in its discretion, require any person invoking an exception to provide proof of eligibility consistent with documentation

[25] 86 FR 59603 (Oct. 28, 2021).

[26] 86 FR 61224 (Nov. 5, 2021).

[27] CDC, Technical Instructions for Implementing Presidential Proclamation Advancing the Safe Resumption of Global Travel During the COVID–19 Pandemic and CDC's Order, *https://www.cdc.gov/quarantine/order-safe-travel/technical-instructions.html* (last reviewed Nov. 30, 2021).

[28] 86 FR 61224 (Nov. 5, 2021) (citing FAA, SAFO 20009, COVID–19: Updated Interim Occupational Health and Safety Guidance for Air Carriers and Crews, *https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/media/2020/SAFO20009.pdf* (last updated May 25, 2021)).

[29] Information on maritime COVID–19 guidance may be found at: *https://www.cdc.gov/quarantine/index.html.*

[30] *See* CDC, *Requirement for Proof of COVID–19 Vaccination for Air Passengers, https://www.cdc.gov/coronavirus/2019-ncov/travelers/proof-of-vaccination.html* (last updated Dec. 21, 2021); *see also, e.g.,* CDC, *Technical Instructions for CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters, https://www.cdc.gov/quarantine/cruise/management/technical-instructions-for-cruise-ships.html* (updated Jan. 14, 2022) and *Interim Guidance for Ships on Managing Suspected or Confirmed Cases of Coronavirus Disease 2019 (COVID–19), https://www.cdc.gov/quarantine/maritime/recommendations-for-ships.html* (Updated Nov. 5, 2021). As noted above, DHS considered but rejected a testing requirement due to operational considerations. DHS notes that sea crew members are not excepted under this Notification.

[31] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

[32] The exceptions to this temporary restriction are generally aligned with those outlined in the Presidential Proclamation and further described in the CDC Order, with modifications to account for the unique nature of land border operations where advance passenger information is largely not available.

requirements in CDC's Technical Instructions.[33]

This Notification does not apply to air or sea travel between the United States and Mexico. This Notification does apply to passenger/freight rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until the date indicated on this Notification, unless modified or rescinded at any point prior to that date, including to conform these restrictions to any intervening changes in the Presidential Proclamation and implementing CDC orders. In conjunction with interagency partners, I will closely monitor the effect of the requirements discussed herein, especially as they relate to any potential impacts on the supply chain and will, as needed and warranted, exercise my authority in support of the U.S. national interest.

I intend for this Notification and the restrictions discussed herein to be given effect to the fullest extent allowed by law; in the event that a court of competent jurisdiction stays, enjoins, or sets aside any aspect of this action, on its face or with respect to any person, entity, or class thereof, any portion of this action not determined by the court to be invalid or unenforceable should otherwise remain in effect for the duration stated above.

This action is not a rule subject to notice and comment under the Administrative Procedure Act (APA). It is exempt from notice and comment requirements because it concerns ongoing discussions with Canada and Mexico on how best to control COVID–19 transmission over our shared borders and therefore directly ''involve[s] . . . a . . . foreign affairs function of the United States.'' Even if this action were subject to notice and comment, there is good cause to dispense with prior public notice and the opportunity to comment. Given the public health emergency caused by COVID–19, including the rapidly evolving circumstances associated with elevated rates of infection due to the Omicron variant, it would be impracticable and contrary to the public health, and the public interest, to delay the issuance and effective date of this action.

The CBP Commissioner is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the implementation of the temporary measures set forth in this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian or emergency reasons or for other purposes in the national interest, permit the processing of travelers to the United States who would otherwise be subject to the restrictions announced in this Notification.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2022–01403 Filed 1–21–22; 8:45 am]

BILLING CODE 9112–FP–P

[33] CDC, Technical Instructions for Implementing Presidential Proclamation Advancing the Safe Resumption of Global Travel During the COVID–19 Pandemic and CDC's Order, *https://www.cdc.gov/quarantine/order-safe-travel/technical-instructions.html* (last reviewed Nov. 30, 2021).

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

[Docket No. DHS–2022–0002]

RIN 1601–ZA20

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of temporary travel restrictions.

SUMMARY: This Notification announces the decision of the Secretary of Homeland Security (''Secretary''), after consulting with interagency partners, to temporarily restrict travel by certain noncitizens into the United States at land ports of entry, including ferry terminals (''land POEs'') along the United States-Canada border. These restrictions only apply to noncitizens who are neither U.S. nationals nor lawful permanent residents (''noncitizen non-LPRs''). Under the temporary restrictions, DHS will allow processing for entry into the United States of only those noncitizen non-LPRs who are fully vaccinated against COVID–19 and can provide proof of being fully vaccinated against COVID–19 upon request. The restrictions provide for limited exceptions, largely consistent with the limited exceptions currently available with respect to COVID–19 vaccination in the international air travel context. Unlike past actions of this type, this Notification does not contain an exception for essential travel.

DATES: These restrictions go into effect at 12 a.m. Eastern Standard Time (EST) on January 22, 2022, and will remain in effect until 11:59 p.m. Eastern Daylight Time (EDT) on April 21, 2022, unless amended or rescinded prior to that time.

FOR FURTHER INFORMATION CONTACT: Petra Horne, Office of Field Operations, U.S. Customs and Border Protection (CBP), 202–325–1517.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, the Department of Homeland Security (''DHS'') published a Notification of its decision to temporarily limit the travel of certain noncitizen non-LPRs into the United States at land POEs along the United States-Canada border to ''essential travel,'' as further defined in that document.[1] The March 24, 2020 Notification described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak, continued transmission, and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada posed a ''specific threat to human life or national interests.'' Under the March 24, 2020 Notification, DHS continued to allow certain categories of travel, described as ''essential travel.'' Essential travel included travel to attend educational institutions, travel to work in the United States, travel for emergency response and public health purposes, and travel for lawful cross-border trade. Essential travel also included travel by U.S. citizens and lawful permanent residents returning to the United States.

From March 2020 through October 2021, in consultation with interagency partners, DHS reevaluated and ultimately extended the restrictions on non-essential travel each month. The most recent action of this type, published on October 21, 2021, continued the restrictions until 11:59 p.m. EST on January 21, 2022.[2] In that document, DHS acknowledged that notwithstanding the continuing threat to human life or national interests posed by COVID–19—as well as recent increases in case levels,

[1] 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published a Notification of its decision to temporarily limit the travel of certain noncitizen non-LPR persons into the United States at land POEs along the United States-Mexico border to ''essential travel,'' as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

[2] *See* 86 FR 58218 (Oct. 21, 2021) (extending restrictions for the United States-Canada border); 86 FR 58216 (Oct. 21, 2021) (extending restrictions for the United States-Mexico border).

hospitalizations, and deaths due to the Delta variant—COVID–19 vaccines are effective against Delta and other known COVID–19 variants. These vaccines protect people from becoming infected with and severely ill from COVID–19 and significantly reduce the likelihood of hospitalization and death. DHS also acknowledged the White House COVID–19 Response Coordinator's September 2021 announcement regarding the United States' plans to revise standards and procedures for incoming international air travel to enable the air travel of travelers fully vaccinated against COVID–19 beginning in early November 2021.[3] DHS further stated that the Secretary intended to do the same with respect to certain travelers seeking to enter the United States from Mexico and Canada at land POEs to align the treatment of different types of travel and allow those who are fully vaccinated against COVID–19 to travel to the United States for non-essential reasons.[4]

On October 29, 2021, following additional announcements regarding changes to the international air travel policy by the President of the United States and the Centers for Disease Control and Prevention (''CDC''),[5] DHS announced that beginning November 8, 2021, non-essential travel of noncitizen non-LPRs would be permitted through land POEs, provided that the traveler is fully vaccinated against COVID–19 and can provide proof of full COVID–19 vaccination status.[6] DHS also announced that beginning in January 2022, inbound noncitizen non-LPRs traveling to the United States via land POEs—whether for essential or non-essential reasons—would be required to be fully vaccinated against COVID–19 and provide proof of full COVID–19 vaccination status.[7]

DHS has continued to monitor and respond to the COVID–19 pandemic. On December 14, 2021, at DHS's request, CDC provided a memorandum to DHS describing the current status of the COVID–19 public health emergency. The CDC memorandum warned of ''case counts and deaths due to COVID–19 continuing to increase around the globe and the emergence of new and concerning variants,'' and emphasized that ''[v]accination is the single most important measure for reducing risk for SARS–CoV–2 transmission and avoiding severe illness, hospitalization, and death.'' [8] Given these considerations, CDC recommended that proof of COVID–19 vaccination requirements be expanded to cover both essential and non-essential noncitizen non-LPR travelers.

According to CDC, studies indicate that individuals vaccinated against COVID–19 are five times less likely to be infected with COVID–19 and more than eight times less likely to require hospitalization than those who are unvaccinated. Further, unvaccinated people are 14 times more likely to die from COVID–19 than those who are vaccinated. Such increases in hospitalization and death rates strain critical healthcare resources, which in some parts of the United States may be in short supply.[9] As CDC wrote, ''proof of vaccination of travelers helps protect the health and safety of both the personnel at the border and other travelers, as well as U.S. destination communities. Border security and transportation security work is part of the nation's critical infrastructure and presents unique challenges for ensuring the health and safety of personnel and travelers.''

CDC's memorandum also acknowledged that because of operational considerations, requirements at land POEs may differ from those implemented for air travel. CDC recognized the operational challenges, as described by DHS, with imposing a testing requirement at land POEs, and noted key differences between land travel and air travel with respect to the volume of travel, predictability, and infrastructure involved.[10] In the absence of required pre-entry COVID–19 testing, CDC described a proof of COVID–19 vaccination requirement as ''essential as a matter of public health.'' [11]

In a January 14, 2022 update, also at the request of DHS, CDC confirmed its prior recommendation. Specifically, CDC noted the ''rapid increase'' of COVID–19 cases across the United States that have contributed to high levels of community transmission and increased rates of new hospitalizations and deaths. According to CDC, between January 5 and January 11, 2022, the seven-day average for new hospital admissions of patients with confirmed COVID–19 increased by 24 percent over the prior week, and the seven-day average for new COVID–19-related deaths rose to 2,991, an increase of 33.7 percent compared to the prior week. CDC emphasized that this increase has exacerbated the strain on the United States' healthcare system and again urged that ''[v]accination of the broadest number of people best protects all individuals and preserves the United

[3] *See* Press Briefing by Press Secretary Jen Psaki (Sept. 20, 2021), *https://www.whitehouse.gov/briefing-room/press-briefings/2021/09/20/press-briefing-by-press-secretary-jen-psaki-september-20-2021/* (''As was announced in a call earlier today . . . [w]e—starting in . . . early November [will] be putting in place strict protocols to prevent the spread of COVID–19 from passengers flying internationally into the United States by requiring that adult foreign nationals traveling to the United States be fully vaccinated.'').

[4] *See* 86 FR 58218; 86 FR 58216.

[5] Changes to requirements for travel by air were implemented by, *inter alia,* Presidential Proclamation 10294 of October 25, 2021, 86 FR 59603 (Oct. 28, 2021) (Presidential Proclamation), and a related CDC order, 86 FR 61224 (Nov. 5, 2021) (CDC Order). *See also* CDC, *Requirement for Proof of Negative COVID–19 Test or Recovery from COVID–19 for All Air Passengers Arriving in the United States, https://www.cdc.gov/quarantine/pdf/Global-Testing-Order-10-25-21-p.pdf* (Oct. 25, 2021); *Requirement for Airlines and Operators to Collect Contact Information for All Passengers Arriving into the United States, https://www.cdc.gov/quarantine/pdf/CDC-Global-Contact-Tracing-Order-10-25-2021-p.pdf* (Oct. 25, 2021). CDC later amended its testing order following developments related to the Omicron variant. *See* CDC, *Requirement for Proof of Negative COVID–19 Test Result or Recovery from COVID–19 for All Airline Passengers Arriving into the United States, https://www.cdc.gov/quarantine/pdf/Amended-Global-Testing-Order_12-02-2021-p.pdf* (Dec. 2, 2021).

[6] *See, e.g.,* DHS, Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals, *https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals* (updated Nov. 23, 2021). *See also* 86 FR 72842 (Dec. 23, 2021) (describing the announcement with respect to Canada); 86 FR 72843 (Dec. 23, 2021) (describing the announcement with respect to Mexico).

[7] *See* DHS, DHS Releases Details for Fully Vaccinated, Non-Citizen Travelers to Enter the U.S. at Land and Ferry Border Crossings, *https://www.dhs.gov/news/2021/10/29/dhs-releases-details-fully-vaccinated-non-citizen-travelers-enter-us-land-and-ferry* (Oct. 29, 2021); DHS, Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals, *https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals* (updated Nov. 23, 2021); *see also* DHS, Frequently Asked Questions: Guidance for Travelers to Enter the U.S., *https://www.dhs.gov/news/2021/10/29/frequently-asked-questions-guidance-travelers-enter-us* (updated Nov. 23, 2021).

[8] *See* Memorandum from CDC to CBP re Public Health Recommendation for Proof of COVID–19 Vaccination at U.S. Land Borders (Dec. 14, 2021).

[9] At the time of the memorandum, CDC noted that the Delta variant was still the predominant variant in the United States, but that ongoing research indicated that the Omicron variant may spread more easily than the original SARS–CoV–2 virus. CDC noted that further studies are underway to assess concerns about whether the Omicron variant may have increased transmissibility, confer resistance to therapeutics, or partially escape infection- or vaccine-induced immunity.

[10] CBP assesses that a testing option is not operationally feasible given the significant number of land border crossers that go back on forth on a daily, or near-daily basis, for work or school. A negative COVID–19 test requirement would mean that such individuals would have to get tested just about every day. This is not currently feasible, given the cost and supply constraints, particularly in smaller rural locations. Further, CBP reports additional operational challenges associated with verifying test results, given the wide variation in documentation.

[11] *See* Memorandum from CDC to CBP (Dec. 14, 2021).

States' critical infrastructure, including healthcare systems and essential workforce.'' CDC thus urged ''the most comprehensive requirements possible for proof of vaccination'' and specifically recommended against exceptions for specific worker categories as a public health matter.[12]

DHS has conferred with interagency partners, taken into account all relevant factors, including economic considerations and CDC's public health input, and concludes that a broad COVID–19 vaccination requirement at land POEs is necessary and appropriate. In particular, DHS notes that, according to the information provided by CDC, those who are not fully vaccinated against COVID–19 have proven to be more likely to be infected by COVID–19, to spread COVID–19 to others, to suffer severe symptoms, and to require the use of scarce hospital resources. DHS acknowledges that in past actions of this type, it has continued to allow essential travel by certain noncitizen non-LPRs who are not fully vaccinated against COVID–19. The assessment has, however, changed in light of the following two factors: (1) The rapid increase of COVID–19 cases; and (2) the increasing availability of COVID–19 vaccines.

With respect to the increasing availability of COVID–19 vaccines, at this point, COVID–19 vaccines—which according to CDC are ''the single most important measure'' for responding to COVID–19 [13]—are widely available and have been increasingly available for months. In Canada, 77.1 percent of the entire population is now fully vaccinated against COVID–19, while 87.8 percent of individuals 12 years and older are fully vaccinated against COVID–19.[14] In Mexico, 55.9 percent of the population is fully vaccinated against COVID–19,[15] while as of October 2021, 72 percent of those living in border regions were fully vaccinated against COVID–19.[16] In October 2021, DHS announced its intention to expand the temporary travel restrictions applicable to land POEs by applying the COVID–19 vaccination requirement to those traveling for essential reasons, thus recognizing the importance of fair notice and allowing ample time for noncitizen non-LPR essential travelers to get fully vaccinated against COVID–19. For these reasons, DHS believes that it is now necessary and appropriate to align COVID–19 vaccine restrictions at land POEs to current U.S. government policy governing incoming international air travel.[17]

Moreover, COVID–19 cases continue to increase rapidly across the United States, as described below. This surge is currently driven by the Omicron variant, which CDC's Nowcast model projects may account for approximately 98.3 percent of cases.[18] On January 5, 2022, 705,264 new COVID–19 cases were reported, more than double the peak in January 2021. Communities across the United States are now experiencing high levels of community transmission, and hospitalizations and deaths are also on the rise.[19] This surge underscores the need for the policy that DHS previously announced, and is an important reason why DHS, in consultation with interagency partners, is declining to implement broad exceptions for certain categories of travelers.

In reaching this conclusion, DHS weighed the concerns of industry and, in particular, firms employing or relying on long-haul truck drivers and persons engaged in freight rail operations.[20] DHS carefully considered alternative approaches, including exceptions for these categories of workers. As a public health matter, CDC strongly discouraged additional exceptions, particularly in light of the current increase in COVID–19 cases and related resulting strains on the healthcare system. Even if such workers do not engage in extended interaction with others, they still engage in activities that involve contact with others, thereby increasing the risk of contributing to community spread of COVID–19. Such workers also may enter the United States after contracting COVID–19, become seriously ill after arrival, and require scarce healthcare resources as a result. Given CDC's recommendation, and after extensive consultation with interagency partners, DHS has determined that such activities do not warrant an exception from these restrictions because these persons still present a public health risk. A COVID–19 vaccination requirement at land POEs helps protect the health and safety of the personnel at the border, other travelers, and the U.S. communities where these persons may be traveling and spending time among the public. A COVID–19 vaccination requirement for these individuals also reduces burdens on local healthcare resources in U.S. communities. This approach aligns the U.S. COVID–19 policies applicable to land POEs with air travel restrictions that require noncitizen non-LPRs traveling by air to the United States for both essential and non-essential reasons to be fully vaccinated against COVID–19 and provide related proof of vaccination, with very few exceptions. This approach also aligns with new travel restrictions imposed by Canada on January 15, 2022, which similarly impose a COVID–19 vaccination requirement on cross-border travel, with no exception for truck drivers or freight rail operators.[21]

DHS also acknowledges concerns among some industry stakeholders that this policy, however necessary to protect the American public, could disrupt cross-border economic activity. In consultation with interagency partners, DHS has carefully considered these concerns. DHS has conferred with interagency partners and determined that these concerns are outweighed by the competing public health concerns and the wide availability of COVID–19 vaccines, coupled with the growing body of evidence that employment-related COVID–19 vaccine mandates result in high levels of COVID–19 vaccine acceptance among employees.[22]

[12] Memorandum from CDC to CBP re Public Health Recommendation for Proof of COVID–19 Vaccination at U.S. Land Borders—Addendum (Jan. 18, 2022).

[13] *See* Memorandum from CDC to CBP (Dec. 14, 2021).

[14] Canadian statistics may be found at: *https://health-infobase.canada.ca/covid-19/vaccination-coverage/* (Jan. 17, 2022).

[15] Mexican statistics may be found at: *https://ourworldindata.org/covid-vaccinations?country=MEX* (Jan. 17, 2022).

[16] Government of Mexico briefing for the NSC-led Mexico-U.S. International Travel Working Group, October 2021.

[17] For a discussion of the current U.S. government policy regarding international air travel, *see, supra,* n. 45.

[18] Variant Proportions, Centers for Disease Control and Prevention, *https://covid.cdc.gov/covid-data-tracker/#variant-proportions* (week ending Jan. 8, 2022).

[19] COVID Data Tracker Weekly Review: Interpretive Summary for the Centers for Disease Control and Prevention, *COVID Data Tracker Weekly Review: Interpretive Summary for January 7, 2022, https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html* (Jan. 7, 2022).

[20] DHS acknowledges that past actions of this type exempted freight rail, but DHS notes that the considerations applicable to other forms of travel previously designated as essential apply equally in the freight rail context.

[21] Public Health Agency of Canada website *Requirements for Truckers entering Canada in effect as of January 15, 2022, https://www.Canada.ca/en/public-health/news/2022/01/requirements-for-truckers-entering-canada-in-effect-as-of-january-15-2022.html;* Public Health Agency of Canada website: *Minimizing the Risk of Exposure to COVID–19 in Canada Order (Prohibition of Entry into Canada from the United States),* Section 10 of order is the provision that went into place on 15 January 2022, *https://orders-in-council.canada.ca/attachment.php?attach=41322&lang=en.*

[22] *See, e.g.,* David Koenig, Associated Press, American, Alaska, JetBlue join growing list of airlines requiring employees to be vaccinated against COVID–19, *https://www.usatoday.com/story/travel/airline-news/2021/10/02/american-joins-list-airlines-requiring-employee-vaccinations/5968626001/* (Oct. 2, 2021) (''United Airlines took an early and tough stance to require vaccination. United said Thursday that 320 of its 67,000 U.S.

Continued

A recent White House analysis highlights the ways in which COVID–19 vaccine requirements that cover whole industries or sectors can be particularly effective in persuading employees to become fully vaccinated against COVID–19.[23] The incentive effects of industry-wide requirements, as well as the introduction of a range of other policies intended to incentivize vaccination against COVID–19, reduce the likelihood of a significant disruption in cross-border economic activity, while protecting public health.[24]

DHS acknowledges that some persons engaged in essential travel, in particular long-haul truck drivers and persons engaged in freight rail operations, do not engage in work-related activities that involve extended exposure to others in congregate settings. However, there are also important differences between (1) commercial truck, rail, and ferry operators; and (2) air crews and sea crew members traveling pursuant to a C–1 or D nonimmigrant visa. In the international air travel context, under the Presidential Proclamation 10294 of October 25, 2021[25] (''the Presidential Proclamation''), as implemented by CDC's Amended Order Implementing Presidential Proclamation on Advancing the Safe Resumption of Global Travel During the COVID–19 Pandemic[26] and Technical Instructions[27] (''the CDC Order''), commercial air crews are excepted from COVID–19 vaccination requirements only if they follow industry standard protocols for the prevention of COVID–19 as set forth in relevant Safety Alerts for Operators (''SAFO'') issued by the Federal Aviation Administration.[28] SAFO 20009 includes a range of measures for air crew to protect their health and the health of others. Sea crew members traveling pursuant to a C–1 or D nonimmigrant visa are similarly excepted from international air travel COVID–19 vaccine requirements only if they adhere to all industry standard protocols for the prevention of COVID–19, as set forth in relevant CDC guidance for crew member health.[29] Importantly, unvaccinated noncitizen mariners must take a predeparture COVID–19 test within one day of travel and show a negative result prior to boarding a plane, attest that they will self-quarantine upon arrival in the United States, and have access to shipboard quarantine options as needed.[30] Currently, commercial truck drivers and freight rail and ferry operators are not subject to similar industry-wide requirements. They are therefore not amenable to parallel treatment at this time.

DHS, in consultation with its interagency partners, also has considered the operational effect of these requirements. While these changes potentially bring risk of increased wait times at land POEs in the passenger and commercial environments and delays in cargo shipments if vaccinated truck drivers and persons engaged in freight rail operations are unavailable, DHS projects minimal, short-term operational impacts as travelers become familiar with the new requirements. The enforcement of these requirements will mirror the enforcement practices implemented for non-essential travel restrictions on November 8, 2021 which yielded minimal operational disruptions. This assessment is based in part on observations from the implementation of the November 8, 2021 Title 19 restrictions and on the successful implementation of similar requirements by the Canadian government on January 15, 2022.

Notice of Action

Following consultation with CDC and other interagency partners, and after having considered and weighed the relevant factors, I have determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada, including the associated burden on already stressed healthcare resources, poses an ongoing ''specific threat to human life or national interests.'' Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[31] I have

employees faced termination for not getting vaccinated or seeking a medical or religious exemption by a deadline earlier in the week.''); Novant Health, Novant Health update on mandatory COVID–19 vaccination program for employees, *https://www.novanthealth.org/home/about-us/newsroom/press-releases/newsid33987/2576/novant-health-update-on-mandatory-covid-19-vaccination-program-for-employees.aspx* (Sept. 21, 2021) (''Today, 98.6% of more than 35,000 team members are compliant with Novant Health's mandatory COVID–19 vaccination program.''); Houston Methodist, Houston Methodist Requires COVID–19 Vaccine for Credentialed Doctors, *https://www.houstonmethodist.org/leading-medicine-blog/articles/2021/jun/houston-methodist-requires-covid-19-vaccine-for-credentialed-doctors/* (June 8, 2021) (''As of June 1, more than 99% of the system's 26,000 employees and physicians have received the vaccine'' following issuance of a vaccine mandate in April 2021); Alison Kosik, CNN Business, 96% of Tyson's Active Workers are Vaccinated, CNN (Oct. 26, 2021), *https://www.cnn.com/2021/10/26/business/tyson-covid-vaccine/index.html* (''Tyson's President and CEO Donnie King said in a blog post 'we couldn't be happier to say that, as of today, over 96% of our active team members are vaccinated—or nearly 60,000 more than when we made the announcement on August 3.' ''). *See also generally* Dave Muoio, Fierce Healthcare, How many employees have hospitals lost to vaccine mandates? Here are the numbers so far, *https://www.fiercehealthcare.com/hospitals/how-many-employees-have-hospitals-lost-to-vaccine-mandates-numbers-so-far* (last updated Jan. 5, 2022) (collecting examples).

[23] *See* White House Report: Vaccination Requirements Are Helping Vaccinate More People, Protect Americans from COVID–19, and Strengthen the Economy (Oct. 7, 2021).

[24] On October 30, 2021, the Government of Canada imposed a separate domestic mandate on federally regulated railways, and their rail crew and track employees, along with air and marine operators. Each organization is required to have a process for employee attestation of their vaccination status; provide a description of consequences for employees who do not comply or who falsify information; and meet standards consistent with the approach taken by the Government of Canada for the Core Public Administration. *See* Transport Canada, *Mandatory COVID–19 vaccination requirements for federally regulated transportation employees and travellers, https://www.canada.ca/en/transport-canada/news/2021/10/mandatory-covid-19-vaccination-requirements-for-federally-regulated-transportation-employees-and-travellers.html* (updated Oct. 30, 2021).

[25] 86 FR 59603 (Oct. 28, 2021).

[26] 86 FR 61224 (Nov. 5, 2021).

[27] CDC, Technical Instructions for Implementing Presidential Proclamation Advancing the Safe Resumption of Global Travel During the COVID–19 Pandemic and CDC's Order, *https://www.cdc.gov/quarantine/order-safe-travel/technical-instructions.html* (last reviewed Nov. 30, 2021).

[28] 86 FR 61224 (Nov. 5, 2021) (citing FAA, SAFO 20009, COVID–19: Updated Interim Occupational Health and Safety Guidance for Air Carriers and Crews, *https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/media/2020/SAFO20009.pdf* (last updated May 25, 2021)).

[29] Information on maritime COVID–19 guidance may be found at: *https://www.cdc.gov/quarantine/index.html.*

[30] *See* CDC, *Requirement for Proof of COVID–19 Vaccination for Air Passengers, https://www.cdc.gov/coronavirus/2019-ncov/travelers/proof-of-vaccination.html* (last updated Dec. 21, 2021); *see also, e.g.,* CDC, *Technical Instructions for CDC's COVID–19 Program for Cruise Ships Operating in U.S. Waters, https://www.cdc.gov/quarantine/cruise/management/technical-instructions-for-cruise-ships.html* (updated Jan. 14, 2022) and *Interim Guidance for Ships on Managing Suspected or Confirmed Cases of Coronavirus Disease 2019 (COVID–19), https://www.cdc.gov/quarantine/maritime/recommendations-for-ships.html* (Updated Nov. 5, 2021). As noted above, DHS considered but rejected a testing requirement due to operational considerations. DHS notes that sea crew members are not excepted under this Notification.

[31] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S.

determined, in consultation with interagency partners, that land POEs along the United States-Canada border will continue to suspend normal operations and will allow processing for entry into the United States of only those noncitizen non-LPRs who are ''fully vaccinated against COVID–19'' and can provide ''proof of being fully vaccinated against COVID–19'' upon request, as those terms are defined under the Presidential Proclamation and CDC Order. This action does not apply to U.S. citizens, U.S. nationals, lawful permanent residents of the United States, or American Indians who have a right by statute to pass the borders of, or enter into, the United States. In addition, I hereby authorize exceptions to these restrictions for the following categories of noncitizen non-LPRs: [32]

- Certain categories of persons on diplomatic or official foreign government travel as specified in the CDC Order;
- persons under 18 years of age;
- certain participants in certain COVID–19 vaccine trials as specified in the CDC Order;
- persons with medical contraindications to receiving a COVID–19 vaccine as specified in the CDC Order;
- persons issued a humanitarian or emergency exception by the Secretary of Homeland Security;
- persons with valid nonimmigrant visas (excluding B–1 [business] or B–2 [tourism] visas) who are citizens of a country with limited COVID–19 vaccine availability, as specified in the CDC Order;
- members of the U.S. Armed Forces or their spouses or children (under 18 years of age) as specified in the CDC Order; and,
- persons whose entry would be in the U.S. national interest, as determined by the Secretary of Homeland Security.

In administering such exceptions, DHS will not require the Covered Individual Attestation currently in use by CDC for noncitizens who are nonimmigrants seeking to enter the United States by air travel, or similar form, but DHS may, in its discretion, require any person invoking an exception to provide proof of eligibility consistent with documentation requirements in CDC's Technical Instructions.[33]

This Notification does not apply to air or sea travel between the United States and Canada. This Notification does apply to passenger/freight rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until the date indicated on this Notification, unless modified or rescinded at any point prior to that date, including to conform these restrictions to any intervening changes in the Presidential Proclamation and implementing CDC orders. In conjunction with interagency partners, I will closely monitor the effect of the requirements discussed herein, especially as they relate to any potential impacts on the supply chain and will, as needed and warranted, exercise my authority in support of the U.S. national interest.

I intend for this Notification and the restrictions discussed herein to be given effect to the fullest extent allowed by law; in the event that a court of competent jurisdiction stays, enjoins, or sets aside any aspect of this action, on its face or with respect to any person, entity, or class thereof, any portion of this action not determined by the court to be invalid or unenforceable should otherwise remain in effect for the duration stated above.

This action is not a rule subject to notice and comment under the Administrative Procedure Act (APA). It is exempt from notice and comment requirements because it concerns ongoing discussions with Canada and Mexico on how best to control COVID–19 transmission over our shared borders and therefore directly ''involve[s] . . . a . . . foreign affairs function of the United States.'' Even if this action were subject to notice and comment, there is good cause to dispense with prior public notice and the opportunity to comment. Given the public health emergency caused by COVID–19, including the rapidly evolving circumstances associated with elevated rates of infection due to the Omicron variant, it would be impracticable and contrary to the public health, and the public interest, to delay the issuance and effective date of this action.

The CBP Commissioner is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the implementation of the temporary measures set forth in this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian or emergency reasons or for other purposes in the national interest, permit the processing of travelers to the United States who would otherwise be subject to the restrictions announced in this Notification.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2022–01402 Filed 1–21–22; 8:45 am]

BILLING CODE 9112–FP–P

Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

[32] The exceptions to this temporary restriction are generally aligned with those outlined in the Presidential Proclamation and further described in the CDC Order, with modifications to account for the unique nature of land border operations where advance passenger information is largely not available.

[33] CDC, Technical Instructions for Implementing Presidential Proclamation Advancing the Safe Resumption of Global Travel During the COVID–19 Pandemic and CDC's Order, *https://www.cdc.gov/quarantine/order-safe-travel/technical-instructions.html* (last reviewed Nov. 30, 2021).

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

Financial Crimes Enforcement Network; Inflation Adjustment of Civil Monetary Penalties

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: FinCEN is publishing this final rule to reflect inflation adjustments to its civil monetary penalties as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. This rule adjusts certain maximum civil monetary penalties within the jurisdiction of FinCEN to the amounts required by that Act.

DATES: Effective January 24, 2022.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at 1–800–767–2825, or electronically at *frc@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In order to improve the effectiveness of civil monetary penalties (CMPs) and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended in 2015 by section 701 of Public Law 114–74, codified at 28 U.S.C. 2461 note (the Act), requires Federal agencies to adjust for inflation each CMP provided by law within the jurisdiction of the agency. The Act requires agencies to adjust the level of CMPs with an initial ''catch-up'' adjustment through an interim final rulemaking. After the initial ''catch-up''

adjustment, agencies are required to adjust CMPs annually and to make the adjustments notwithstanding 5 U.S.C. 553, which requires notice-and-comment rulemaking for certain agency actions. The Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.[1]

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the Act. Under the Act and Office of Management and Budget (OMB) guidance, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for the October preceding the date of the adjustment and the prior year's October CPI–U. As set forth in OMB Memorandum M–22–07 of December 15, 2021, the adjustment multiplier for 2022 is 1.06222. In order to complete the 2022 annual adjustment, each current CMP (all of which were themselves last adjusted in 2021) is multiplied by the 2022 adjustment multiplier. Under the Act, any increase in CMP must be rounded to the nearest multiple of $1.[2]

Procedural Matters

1. Administrative Procedure Act

Section 4(b) of the Act requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs notwithstanding the notice and comment requirements of 5 U.S.C. 553. Additionally, the methodology used for adjusting CMPs for inflation, effective 2017, is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. Accordingly, prior public notice and an opportunity for public comment and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866.

This rule is not a significant regulatory action as defined in section 3(f) of Executive Order 12866.

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects in 31 CFR Part 1010

Authority delegations (Government agencies), Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, part 1010 of chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 2006, Pub. L. 114–41, 129 Stat. 458–459; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 2. Amend § 1010.821 by revising Table 1 of paragraph (b) to read as follows:

§ 1010.821 Penalty adjustment and table.

* * * * *

(b) * * *

TABLE 1 OF § 1010.821—PENALTY ADJUSTMENT TABLE

U.S. Code citation	Civil monetary penalty description	Penalties as last amended by statute	Maximum penalty amounts or range of minimum and maximum penalty amounts for penalties assessed on or after 1/24/2022
12 U.S.C. 1829b(j)	Relating to Recordkeeping Violations For Funds Transfers.	$10,000	$23,011
12 U.S.C. 1955	Willful or Grossly Negligent Recordkeeping Violations.	10,000	23,011
31 U.S.C. 5318(k)(3)(C)	Failure to Terminate Correspondent Relationship with Foreign Bank.	10,000	15,565
31 U.S.C. 5321(a)(1)	General Civil Penalty Provision for Willful Violations of Bank Secrecy Act Requirements.	25,000–100,000	62,689–250,759
31 U.S.C. 5321(a)(5)(B)(i)	Foreign Financial Agency Transaction—Non-Willful Violation of Transaction.	10,000	14,489
31 U.S.C. 5321(a)(5)(C)(i)(I)	Foreign Financial Agency Transaction—Willful Violation of Transaction.	100,000	144,886
31 U.S.C. 5321(a)(6)(A)	Negligent Violation by Financial Institution or Non-Financial Trade or Business.	500	1,253
31 U.S.C. 5321(a)(6)(B)	Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business.	50,000	97,529
31 U.S.C. 5321(a)(7)	Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures.	1,000,000	1,556,481

[1] The increased CMPs, however, apply only with respect to underlying violations occurring after November 2, 2015 the date of enactment of the most recent amendment to the Act.

[2] FinCEN has previously described that it applied a catch-up adjustment for each penalty subject to the Act, based on the year and corresponding amount(s) for which the maximum penalty or range of minimum and maximum penalties was established or last adjusted, whichever is later. *See* Civil Monetary Penalty Adjustment and Table, 81 FR 42503, 42504 (June 30, 2016). Because the year varies for different penalties, penalties that were originally of the same size when promulgated can have different values today pursuant to the application of the Act.

TABLE 1 OF § 1010.821—PENALTY ADJUSTMENT TABLE—Continued

U.S. Code citation	Civil monetary penalty description	Penalties as last amended by statute	Maximum penalty amounts or range of minimum and maximum penalty amounts for penalties assessed on or after 1/24/2022
31 U.S.C. 5330(e)	Civil Penalty for Failure to Register as Money Transmitting Business.	5,000	9,250

Himamauli Das,
Acting Director, Financial Crimes Enforcement Network.

[FR Doc. 2022–01284 Filed 1–21–22; 8:45 am]

BILLING CODE 4810–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2021–0750, FRL–9189–02–R10]

Air Plan Approval; Washington; Update to the Yakima Regional Clean Air Agency Wood Heater and Burn Ban Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Yakima Regional Clean Air Agency (YRCAA) regulations designed to control particulate matter from residential wood heaters, such as woodstoves and fireplaces. The updated YRCAA regulations set fine particulate matter trigger levels for impaired air quality burn bans, consistent with statutory changes enacted by the Washington State Legislature. The submission also contains updates to improve the clarity of the language and align with the statewide solid fuel burning device regulations already applicable in YRCAA's jurisdiction. We are approving these changes because they meet the requirements of the Clean Air Act (CAA) and strengthen the Washington State Implementation Plan (SIP).

DATES: This final rule is effective February 23, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2021–0750. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or *hunt.jeff@epa.gov.*

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

I. Background

On November 18, 2021, we proposed to approve and incorporate by reference *Regulation 1,* sections 3.04 *Wood Heaters* and 3.05 *Burn Bans,* adopted by YRCAA effective November 9, 2020 (86 FR 64438). The reasons for our proposed approval were stated in the proposed rulemaking and will not be re-stated here. The public comment period for our proposed approval ended on December 20, 2021, and we received no comments. Therefore, we are finalizing our action as proposed.

II. Final Action

The EPA is approving and incorporating by reference *Regulation 1,* sections 3.04 *Wood Heaters* and 3.05 *Burn Bans,* adopted by YRCAA effective November 9, 2020. We are also removing from the SIP the outdated 1993 and 1995 Article IX provisions *Woodstoves and Fireplaces,* which are replaced by sections 3.04 and 3.05.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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

IV. Statutory and Executive Order Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

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

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Consistent with EPA policy, the EPA provided an opportunity to request consultation to the Confederated Tribes and Bands of the Yakama Nation in a letter dated April 5, 2021.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 25, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: January 18, 2022.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. In § 52.2470, Table 10 in paragraph (c) is amended by:

■ a. Adding a second entry for ''3.04'' and the entry ''3.05'' in numerical order under the heading ''Article III—Violations—Orders and Hearings''; and

■ b. Removing the heading ''Article IX—Woodstoves and Fireplaces'' and the entries ''9.01'', ''9.02'', ''9.03'', ''9.04'', and ''9.05''.

The additions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA) JURISDICTION

[Applicable in Yakima County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	*	*	*	*
Article III—Violations—Orders and Hearings				
*	*	*	*	*
3.04	Wood Heaters	11/9/20	1/24/22, [INSERT **Federal Register** CITATION].	
3.05	Burn Bans	11/9/20	1/24/22, [INSERT **Federal Register** CITATION].	
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[FR Doc. 2022–01178 Filed 1–21–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0380; FRL–9288–02–R3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving multiple state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 24 major volatile organic compound (VOC) and/or nitrogen oxide (NO_X) emitting facilities pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this rule action, EPA is approving source-specific (also referred to as case-by-case or CbC) RACT determinations or alternative NO_X emissions limits for sources at 24 major NO_X and VOC emitting facilities within the Commonwealth submitted by PADEP. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA) and EPA's implementing regulations.

DATES: This final rule is effective on February 23, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2021–0380. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mr. Riley Burger, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2217. Mr. Burger can also be reached via electronic mail at *burger.riley@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 2, 2021, EPA published a notice of proposed rulemaking (NPRM). 86 FR 41426. In the NPRM, EPA proposed approval of case-by-case RACT determinations or alternative NO_X emissions limits for sources at 24 facilities, as EPA found that the RACT controls for these sources met the CAA RACT requirements for the 1997 and 2008 8-hour ozone NAAQS. These case-by-case RACT determinations or alternative NO_X emissions limits for sources at these facilities were included in PADEP's May 7, 2020 SIP submission on. As indicated in the NPRM, EPA views each facility as a separable SIP revision.

Under certain circumstances, states are required to submit SIP revisions to address RACT requirements for both major sources of NO_X and VOC and any source covered by control technique guidelines (CTG), for each ozone NAAQS. Which NO_X and VOC sources in Pennsylvania are considered ''major,'' and are therefore subject to RACT, is dependent on the location of each source within the Commonwealth. Sources located in nonattainment areas would be subject to the ''major source'' definitions established under the CAA based on the area's current classification(s). In Pennsylvania, sources located in any ozone nonattainment areas outside of moderate or above are subject to source thresholds of 50 tons per year (tpy) because of the Ozone Transport Region (OTR) requirements in CAA section 184(b)(2).

On May 16, 2016, PADEP submitted a SIP revision addressing RACT for both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major source VOC and NO_X RACT requirements for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, *Additional RACT Requirements for Major Sources of NO_X and VOCs* (the ''presumptive'' RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_X and VOC control measures in 25 Pa. Code 129.92–95, *Stationary Sources of NO_X and VOCs,* (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_X sources. The requirements of the RACT I rule remain as previously approved in Pennsylvania's SIP and continue to be implemented as RACT.[1] On September 26, 2017, PADEP submitted a letter, dated September 22, 2017, which committed to address various deficiencies identified by EPA in PADEP's May 16, 2016 ''presumptive'' RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on the commitments PADEP made in its September 22, 2017 letter.[2] 84 FR 20274. In EPA's final conditional approval, EPA noted that PADEP would be required to submit, for EPA's approval, SIP revisions to address any facility-wide or system-wide NO_X emissions averaging plans approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval (*i.e.,* by May 9, 2020). Through multiple submissions between 2017 and 2020, PADEP has submitted to EPA for approval various SIP submissions to implement its RACT II case-by-case determinations and alternative NO_X emissions limits. This rule is based on EPA's review of one of these SIP revisions.

II. Summary of SIP Revision and EPA Analysis

A. Summary of SIP Revision

To satisfy a requirement from EPA's May 9, 2019 conditional approval, PADEP submitted to EPA SIP revisions addressing alternative NO_X emissions limits and/or case-by-case RACT

[1] The RACT I Rule was approved by EPA into the Pennsylvania SIP on March 23, 1998. 63 FR 13789. Through this RACT II rule, certain source-specific RACT I requirements will be superseded by more stringent requirements. See Section II of the preamble to this final rule.

[2] On August 27, 2020, the Third Circuit Court of Appeals issued a decision vacating EPA's approval of three provisions of Pennsylvania's presumptive RACT II rule applicable to certain coal-fired power plants. *Sierra Club* v. *EPA,* 972 F.3d 290 (3d Cir. 2020). None of the sources in this final rule are subject to the presumptive RACT II provisions at issue in that *Sierra Club* decision.

requirements for major sources in Pennsylvania subject to 25 Pa. Code 129.98 or 129.99. Among the Pennsylvania RACT SIP revisions submitted by PADEP were case-by-case RACT determinations and alternative NO_X emissions limits for the existing emissions units at each of the major sources of NO_X and/or VOC that required a source-specific RACT determination or alternative NO_X emissions limits for major sources seeking such limits.

In PADEP's case-by-case RACT determinations, an evaluation was completed to determine if previously SIP-approved, case-by-case RACT emissions limits or operational controls (herein referred to as RACT I and contained in RACT I permits) were more stringent than the new RACT II presumptive or case-by-case requirements. If more stringent, the RACT I requirements will continue to apply to the applicable source. If the new case-by-case RACT II requirements are more stringent than the RACT I requirements, then the RACT II requirements will supersede the prior RACT I requirements.[3]

In PADEP's RACT determinations involving NO_X averaging, an evaluation was completed to determine whether the aggregate NO_X emissions emitted by the air contamination sources included in the facility-wide or system-wide NO_X emissions averaging plan using a 30-day rolling average are greater than the NO_X emissions that would be emitted by the group of included sources if each source complied with the applicable presumptive limitation in 25 Pa. Code 129.97 on a source-specific basis.

Here, EPA is approving SIP revisions pertaining to case-by-case RACT requirements and/or alternative NO_X emissions limits for sources at 24 major NO_X and/or VOC emitting facilities in Pennsylvania, as summarized in Table 1 in this document.

TABLE 1—TWENTY–FOUR MAJOR NO_X AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II DETERMINATIONS UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS

Major source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO_X and/or VOC)	RACT II permit (effective date)
Anvil International, LLC (formerly Grinnell Corporation) (Lancaster).	Yes	VOC	36–05019 (2/1/2019).
ArcelorMittal Plate LLC Conshohocken Plant (formerly Bethlehem Lukens Plate) (Montgomery).	Yes	NO_X and VOC	46–00011 (1/26/2018).
Braskem America Inc. Marcus Hook (formerly Epsilon Products Co.—Marcus Hook) (Delaware).	Yes	VOC	23–00012 (3/2/2020).
Buck Co Inc. Quarryville (formerly Buck Company Inc) (Lancaster).	Yes	VOC	36–05053 (4/1/2020).
Calumet Karns City Refining LLC (formerly Penreco—Karns City) (Butler).	Yes	VOC	10–027H (11/29/2018).
Clarion Bathware Marble (Clarion)	No	VOC	16–00133 (12/19/2020).
Domtar Paper Company Johnsonburg Mill (formerly Willamette Industries, Johnsonburgh Mill) (Elk).	Yes	NO_X and VOC	24–00009 (2/25/2020).
Exelon Generation Company LLC Croydon Generating Station (formerly PECO Energy Co.—Croydon Generating Station) (Bucks).	Yes	NO_X	09–00016 (4/11/2018).
Georgia-Pacific Panel Products LLC Mt. Jewell MDF Plant (McKean).	Yes	NO_X and VOC	42–158R (1/2/2019).
GE Transportation Grove City Engine (formerly GE Transportation Systems) (Mercer).	Yes	NO_X and VOC	43–00196 (11/7/2019).
GrafTech USA LLC St Marys (formerly The Carbide/Graphite Group, Inc) (Elk).	Yes	VOC	24–00012 (5/1/2019).
Haysite Reinforced Plastics LLC Erie (Erie).	No	VOC	25–00783 (7/24/2019).
INMETCO Ellwood City (formerly The International Metals Reclamation Co) (Lawrence).	Yes	NO_X and VOC	37–00243 (12/6/2019).
International Waxes Inc Farmers Valley (formerly Petrowax Refining) (McKean).	Yes	NO_X and VOC	42–00011 (2/21/2020).
Jeld Wen Fiber Division PA (Bradford).	Yes	NO_X and VOC	08–00003 (9/21/2018).
Mars Wrigley Confectionery US LLC Elizabethtown (Lancaster).	Yes	VOC	36–05142 (7/18/2019).

[3] While the prior SIP-approved RACT I permit will remain part of the SIP, this RACT II rule will incorporate by reference the RACT II requirements through the RACT II permit and clarify the ongoing applicability of specific conditions in the RACT I permit.

TABLE 1—TWENTY–FOUR MAJOR NO_X AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II DETERMINATIONS UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS—Continued

Major source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO_X and/or VOC)	RACT II permit (effective date)
Molded Fiber Glass Company Union City (formerly Molded Fiber Glass) (Erie).	Yes	VOC	25–00035 (2/5/2020).
Monroe Energy LLC Trainer (formerly Conoco Phillips Company) (Delaware).	Yes	NO_X and VOC	23–00003 (6/5/2017).
Nova Chemicals Company Beaver (formerly Nova Chemicals, Inc.) (Beaver).	Yes	VOC	04–00033 (4/2/2020).
Sasol Chemicals USA LLC (formerly Merisol Antioxidants LLC) (Venango).	Yes	VOC	61–00011 (2/16/2020).
Silberline Manufacturing Company Lincoln Drive Plant (formerly Silberline Manufacturing Co) (Schuylkill).	Yes	VOC	54–00041 (3/16/2020).
Superior Tube Company Lower Providence (formerly Superior Tube Company) (Montgomery).	Yes	VOC	46–00020 (2/5/2020).
Victaulic Company Alburtis Facility (Lehigh).	Unknown *	VOC	39–00069 (10/24/2017).
Victaulic Forks Facility (Northampton).	Unknown **	VOC	48–0009 (10/24/2017).

* PADEP records indicate that Victaulic Company Alburtis Facility may have been subject to RACT I requirements because PADEP technical review memos and operating permits issued to the facility in the past reference RACT I requirements. However, in reviewing the facility's files, PADEP could not produce a RACT I permit nor any files specific to the issuance of RACT I. Furthermore, RACT I requirements were never incorporated into the Pennsylvania SIP for Victaulic Alburtis. See PADEP comment and response document dated January 2020.

** PADEP records indicate that Victaulic Forks Facility may have been subject to RACT I requirements because PADEP technical review memos and operating permits issued to the facility in the past reference RACT I requirements. However, in reviewing the facility's files, PADEP could not produce a RACT I permit nor any files specific to the issuance of RACT I. Furthermore, RACT I requirements were never incorporated into the Pennsylvania SIP for Victaulic Forks. See PADEP comment and response document dated January 2020.

The case-by-case RACT determinations submitted by PADEP consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in a PADEP determination of what specific emissions limit or control measures satisfy RACT for that particular unit. The adoption of new, additional, or revised emissions limits or control measures to existing SIP-approved RACT I requirements were specified as requirements in new or revised federally enforceable permits (hereafter RACT II permits) issued by PADEP to the source. Similarly, PADEP's determinations of alternative NO_X emissions limits are included in RACT II permits. These RACT II permits have been submitted as part of the Pennsylvania RACT SIP revisions for EPA's approval in the Pennsylvania SIP under 40 CFR 52.2020(d)(1). The RACT II permits submitted by PADEP are listed in the last column of Table 1 of this preamble, along with the permit effective date, and are part of the docket for this rule, which is available online at *https://www.regulations.gov,* Docket No. EPA–R03–OAR–2021–0380.[4] EPA is incorporating by reference in the Pennsylvania SIP, via the RACT II permits, source-specific RACT emissions limits and control measures and/or alternative NO_X emissions limits under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_X and VOC emissions.

B. EPA's Final Action

PADEP's SIP revisions incorporate its determinations of source-specific RACT II controls for individual emission units at major sources of NO_X and/or VOC in Pennsylvania, where those units are not covered by or cannot meet Pennsylvania's presumptive RACT regulation or where included in a NO_X emissions averaging plan. After thorough review and evaluation of the information provided by PADEP in its SIP revision submittals for sources at 24 major NO_X and/or VOC emitting facilities in Pennsylvania, EPA found that: (1) PADEP's case-by-case RACT determinations and conclusions establish limits and/or controls on individual sources that are reasonable and appropriately considered technically and economically feasible controls; (2) PADEP's determinations on alternative NO_X emissions limits demonstrate that emissions under the averaging plan are equivalent to emissions if the individual sources were operating in accordance with the applicable presumptive limit; and (3) PADEP's determinations are consistent with the CAA, EPA regulations, and applicable EPA guidance.

PADEP, in its RACT II determinations, considered the prior source-specific RACT I requirements and, where more stringent, retained those RACT I requirements as part of its new RACT determinations. In the NPRM, EPA proposed to find that all the proposed revisions to previously SIP-approved RACT I requirements would result in equivalent or additional reductions of NO_X and/or VOC emissions. The proposed revisions should not interfere with any applicable requirements concerning attainment of the NAAQS, reasonable further progress, or other applicable requirements under section 110(l) of the CAA.

[4] The RACT II permits included in the docket for this rule are redacted versions of the facilities' federally enforceable permits. They reflect the specific RACT requirements being approved into the Pennsylvania SIP via this final action.

Other specific requirements of the 1997 and 2008 8-hour ozone NAAQS case-by-case RACT determinations and alternative NO_X emissions limits and the rationale for EPA's proposed action are explained more thoroughly in the NPRM, and its associated technical support document (TSD), and will not be restated here.

III. Public Comments and EPA Responses

EPA received comments from three commenters on the August 2, 2021 NPRM. 86 FR 41426. A summary of the comments and EPA's responses are discussed in this section. A copy of the comments can be found in the docket for this rule action.

Comment 1: One commenter notes that where PADEP proposed annual limits as RACT, EPA has proposed approval of these limits as SIP strengthening measures rather than RACT provisions. The commenter asserts that if EPA cannot approve the provisions as RACT due to EPA's policy of not approving limits with averaging times longer than 30 days, the annual limit determinations must be disapproved and remitted back to the state or EPA must explain how this long-term limit is acceptable.

Response 1: While the commenter does not specify a particular EPA policy, EPA agrees that its existing guidance does highlight the need for emission controls that are reasonably consistent with protecting a short-term NAAQS such as ozone. In those cases where an emission limit for a RACT control can be quantified, EPA guidance states that averaging periods for such limits should be as short as practicable and in no case longer than 30 days.[5]

Since the 1970's, EPA has consistently defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility. The establishment of case-by-case RACT requirements to reduce VOC and/or NO_X emissions considers not only numeric emission limits, but also design and equipment specifications, operational and throughput constraints and work practice standards.

In the SIP revisions in this final rule action, PADEP has followed its SIP-approved RACT process and evaluated the technical and economic feasibility of control strategies for various sources that required source-specific RACT requirements. While the commenter has not identified any specific objectionable source or annual limit, PADEP's CbC determinations for sources at the 24 facilities at issue in this rule run the gamut of short-term emission limits, operational and throughput constraints, and work practice standards. Sometimes, the CbC determination is the retention of the prior RACT requirements. The CbC determinations also impose monitoring and recordkeeping requirements to ensure enforceability. In addition to these source-specific RACT requirements, PADEP has, for certain sources, added an annual limit to its CbC determination. These annual limits derive from either existing permit limits previously established under another regulatory authority or operating conditions utilized in conducting the economic feasibility portion of the RACT analysis. The annual limits help to ensure that the SIP requires the conditions under which PADEP analyzed RACT feasibility. PADEP included those annual limits in its SIP submittal to us, and EPA is incorporating those annual emission limits into the SIP not as RACT control limits but for the purpose of SIP strengthening.[6]

Courts have recognized EPA's ability to approve such SIP strengthening measures. In *Ass'n of Irritated Residents* v. *EPA,* the court noted that the CAA generally provides states with the responsibility to meet air quality standards and to adopt emission limits, No. 19–71223 (9th Cir. August 26, 2021). *See also* 42 U.S.C. 7407(a), 7416. The court also reasoned that the CAA does not prohibit a state from establishing an emission limit so long as it is not less stringent than limits already in the SIP and is enforceable. Id. section 7416. The annual emissions limits established by PADEP here meet both criteria. As described above, the annual limits are an additional requirement imposed by PADEP to supplement its CbC RACT determinations. They are not less stringent and are enforceable. For these reasons, we consider the annual limits to be separate from RACT and will approve them into the SIP as strengthening measures.

Comment 2: The commenter claims that EPA is required to disapprove the RACT permit limits for ArcelorMittal Plate LLC's Conshohocken Plant (ArcelorMittal Conshohocken) because ''the emission limits are not sufficient enough to meet RACT requirements.'' The commenter lists the following sources as having only ton per year limits or limits calculated on a rolling 12-month average or sum: Drever Furnace, Quench Furnace, Rose Annealing Furnace, Slab Heating Furnaces 1 and 2, and Temper Furnace. The commenter cites several documents, including EPA's own rulemaking actions and guidance documents, that point to a 30-day averaging time for NO_X RACT being appropriate for a short-term NAAQS such as the 8-hour ozone NAAQS as support for disapproving the annual limits and the 12-month averaging periods in the ArcelorMittal Conshohocken RACT II permit.

In a second, yet related comment, the same commenter further claims that EPA cannot approve the 12-month averaging emission limits for sources at ArcelorMittal Conshohocken as ''SIP strengthening'' measures. The commenter notes that in EPA's technical support document, it has identified these 12-month averaging limits as PADEP RACT limits and claims that EPA cannot now avoid disapproving these allegedly inadequate annual limits by calling them SIP strengthening measures. Additionally, the commenter claims that ''it is possible to place shorter term limits, such as 30-day rolling averages'' on the sources at ArcelorMittal Conshohocken.

Response 2: The two comments received regarding EPA's proposed approval of the annual limits in PADEP's SIP revision for sources at ArcelorMittal Conshohocken's facility specifically refer to the annual NO_X emission limits included by PADEP in its CbC determinations for the five sources listed in the above comment that EPA is now approving and incorporating into the Pennsylvania SIP as ''SIP strengthening'' measures. For context, the NO_X emission limits being incorporated as SIP strengthening measures for four of the five sources (Quench Furnace, Rose Annealing Furnace, Slab Heating Furnaces 1 and 2, and Temper Furnace) are existing NO_X emission limits, which were previously incorporated into the Pennsylvania SIP for this facility. The annual NO_X emission limit being incorporated with this rule action as a SIP strengthening measure for the fifth source, the Drever Furnace, is an existing permit limitation, which is not currently incorporated into the Pennsylvania SIP.

As required under its SIP-approved RACT CbC process, PADEP conducted technical and, if applicable, economic feasibility analyses for all five sources at

[5] See the January 20, 1984 EPA guidance memorandum titled ''Averaging Times for Compliance with VOC Emission Limits—SIP Revision Policy.''

[6] See also EPA's October 16, 2020 approval of other PADEP CbC SIP revisions for a discussion of SIP strengthening provisions. 85 FR 65706, 65709.

ArcelorMittal Conshohocken pursuant to 25 Pa. Code 129.99, which in turn references the process outlined in 25 Pa. Code 129.92. In all five instances, no new controls were determined to be technically or economically feasible for the sources. For all five sources, the RACT II determinations EPA is approving include a fuel limitation (in thousand cubic feet per hour (Mcf/hr) calculated as a 12-month rolling sum); monthly fuel recordkeeping requirements; monthly and 12-month rolling sum NO_X emissions calculations (using a designated emission factor in lb/Mcf fuel used); and a requirement to maintain and operate the source in accordance with manufacturer's specifications and in accordance with good air pollution practices. In addition, PADEP also seeks to include in the SIP annual NO_X emission limits.[7]

As discussed more fully in response to Comment 1, above of this preamble, states may propose additional emission limits to be included within its SIP, and EPA may approve such limits for a SIP so long as they are no less stringent. EPA views these as SIP strengthening measures. They help to ensure that the SIP requires the conditions under which PADEP analyzed RACT feasibility. The annual limits PADEP included for the five sources at ArcelorMittal Conshohocken derive from existing permit limits. Because these limits are being approved as SIP strengthening measures, rather than RACT limits, the rulemaking actions and guidance documents that commenter points to are irrelevant here.

The commenter also makes a generalized claim that it is possible to limit the subject sources to a term shorter than 12-month averages. While the commenter's claim that it is *possible* to have shorter term limits may be correct, a shorter-term limit is not required. PADEP chose to utilize existing annual limits established under another regulatory authority to add further limits to its RACT determinations. As discussed above, the RACT II determinations for the sources at the facility include fuel limitations, monthly recordkeeping requirements, and a requirement to maintain and operate in accordance with manufacturer's specifications.

PADEP included those annual limits in its SIP submittal to us, and EPA is incorporating those annual emission limits into the SIP not as RACT control limits but for the purpose of SIP strengthening. As described above, the annual limits are an additional requirement imposed by PADEP to supplement its CbC RACT determinations. They are not less stringent and are enforceable. For these reasons, we consider the annual limits to be separate from RACT and will approve them into the SIP as strengthening measures.

Comment 3: One commenter requested disapproval of the Exelon Generation Company, LLC Croydon Generating Station RACT determination. The commenter asserts that water injection and selective catalytic reduction (SCR) for the sources at this facility should have been found economically feasible and should have been considered when evaluating PADEP's RACT submittal. Further, commenter supports this argument by noting that the neighboring states of New Jersey, New York, and Maryland have determined these controls feasible at similar cost effectiveness values.

Response 3: For sources at this facility, water injection and SCR were found to have, respectively, NO_X removal costs of $5,696 and $4,423 per ton of NO_X controlled. PADEP utilizes a cost effectiveness threshold of $3,500 per ton of NO_X controlled. Therefore, PADEP determined that neither technology was cost effective and, therefore, both were eliminated in the analysis as economically feasible controls.

While other states may consider the cost effectiveness values for these identified controls reasonable, each state has discretion to determine what costs are considered reasonable when establishing RACT for sources located within their jurisdictions and must make and defend their determination on how to weigh these values in establishing RACT. In its RACT II rule development, Pennsylvania also reviewed examples of benchmarks used by other states: Wisconsin, $2,500 per ton NO_X; Illinois, $2,500–$3,000 per ton NO_X; Maryland, $3,500–$5,000 per ton NO_X; Ohio, $5,000 per ton NO_X; and New York, $5,000–$5,500 per ton NO_X.[8]

In its conditional approval of Pennsylvania's overall RACT II program, EPA found that PADEP's cost effectiveness thresholds are reasonable and reflect control levels achieved by the application and consideration of available control technologies, after considering both the economic and technological circumstances of Pennsylvania's own sources. See 84 FR 20274, 20286 (May 9, 2019).[9] For these reasons EPA is finalizing the RACT determinations for the Exelon Generation Company, LLC Croydon Generating Station.

IV. Final Action

EPA is approving case-by-case RACT determinations and/or alternative NO_X emissions limits for 24 sources in Pennsylvania, as required to meet obligations pursuant to the 1997 and 2008 8-hour ozone NAAQS, as revisions to the Pennsylvania SIP.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of source-specific RACT determinations and alternative NO_X emissions limits under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of VOC and NO_X in Pennsylvania. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[10]

VI. Statutory and Executive Order Reviews

A. General Requirements

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

[7] See PADEP Technical Review Memos, dated October 27, 2016 and August 8, 2017 [revised January 18, 2018].

[8] PADEP Responses to Frequently Asked Questions, Final Rulemaking RACT Requirements for Major Sources of NO_X and VOCs. October 20, 2016.

[9] See also EPA's October 16, 2020 approval of other PADEP CbC SIP revisions for a discussion of PADEP's cost effectiveness thresholds. 85 FR 65706, 65711.

[10] 62 FR 27968 (May 22, 1997).

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 25, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action approving Pennsylvania's NO_X and VOC RACT requirements for 24 facilities for the 1997 and 2008 8-hour ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 8, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

For the reasons set out in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by:

■ a. Revising the entries ''Superior Tube Company''; ''PECO Energy Co.—Croydon Generating Station''; ''Epsilon Products Co.—Marcus Hook''; ''Silberline Manufacturing Co''; ''Nova Chemicals, Inc. (formerly Arco Chemical Co.—Beaver Valley)''; ''Penreco—Karns City''; ''Bethlehem Lukens Plate''; ''GE Transportation Systems''; ''Grinnell Corporation''; ''Buck Company Inc''; ''Petrowax Refining''; ''Molded Fiber Glass''; ''The International Metals Reclamation Co''; ''Conoco Phillips Company''; ''Willamette Industries, Johnsonburgh Mill''; ''Merisol Antioxidants LLC''; and ''The Carbide/Graphite Group, Inc''; and

■ b. Adding entries at the end of the table for ''Anvil International, LLC (formerly referenced as Grinnell Corporation)''; ''ArcelorMittal Plate LLC Conshohocken Plant (formerly referenced as Bethlehem Lukens Plate)''; ''Braskem America Inc. Marcus Hook (formerly referenced as Epsilon Products Co.—Marcus Hook)''; ''Buck Co Inc. Quarryville (formerly referenced as Buck Company Inc)''; ''Calumet Karns City Refining LLC (formerly referenced as Penreco—Karns City)''; ''Clarion Bathware Marble''; ''Domtar Paper Company Johnsonburg Mill (formerly referenced as Willamette Industries, Johnsonburgh Mill)''; ''Exelon Generation Company LLC Croydon Generating Station (formerly referenced as PECO Energy Co.—Croydon Generating Station)''; ''Georgia-Pacific Panel Products LLC Mt. Jewell MDF Plant''; ''GE Transportation Grove City Engine (formerly referenced as GE Transportation Systems)''; ''GrafTech USA LLC St Marys (formerly referenced as The Carbide/Graphite Group, Inc)''; ''Haysite Reinforced Plastics LLC Erie''; ''INMETCO Ellwood City (formerly referenced as The International Metals Reclamation Co)''; ''International Waxes Inc Farmers Valley (formerly referenced as Petrowax Refining''; ''Jeld Wen Fiber Division PA''; ''Mars Wrigley Confectionery US LLC Elizabethtown''; ''Molded Fiber Glass Company Union City (formerly referenced as Molded Fiber Glass)''; ''Monroe Energy LLC Trainer (formerly referenced as Conoco Phillips Company)''; ''Nova Chemicals Company Beaver (formerly referenced as Nova Chemicals, Inc.)''; ''Sasol Chemicals USA LLC (formerly referenced as Merisol Antioxidants LLC)''; ''Silberline Manufacturing Company Lincoln Drive Plant (formerly referenced as Silberline Manufacturing Co)''; ''Superior Tube Company Lower Providence (formerly referenced as Superior Tube Company)''; ''Victaulic Company Alburtis Facility''; and ''Victaulic Forks Facility''.

The revisions and additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/ §§ 52.2063 and 52.2064 citations [1]
*	*	*	*	*	*
Superior Tube Company	OP–46–0020	Montgomery	4/17/98	11/06/98, 63 FR 59884	See also 52.2064(g)(22).
*	*	*	*	*	*
PECO Energy Co.—Croydon Generating Station.	OP–09–0016A	Bucks	12/20/96	12/15/00, 65 FR 78418	See also 52.2064(g)(8).
*	*	*	*	*	*
Epsilon Products Co.—Marcus Hook.	OP–23–0012	Delaware	2/15/96	12/15/00, 65 FR 78418	See also 52.2064(g)(3).
*	*	*	*	*	*
Silberline Manufacturing Co	OP–54–0041	Schuylkill	4/19/99	12/15/00, 65 FR 78418	See also 52.2064(g)(21).
*	*	*	*	*	*
Nova Chemicals, Inc. (formerly Arco Chemical Co.—Beaver Valley).	(OP)04–000–033	Beaver	4/16/99 1/24/01	10/17/01, 66 FR 52705	See also 52.2064(g)(19).
*	*	*	*	*	*
Penreco—Karns City	OP–10–0027	Butler	5/31/95	10/12/01, 66 FR 52044	See also 52.2064(g)(5).
*	*	*	*	*	*
Bethlehem Lukens Plate	P–46–0011	Montgomery	12/11/98	10/30/01, 66 FR 54691	See also 52.2064(g)(2).
*	*	*	*	*	*
GE Transportation Systems	OP–43–196	Mercer	5/16/01	3/31/05, 70 FR 16416	See also 52.2064(g)(10).
*	*	*	*	*	*
Grinnell Corporation	36–2019	Lancaster	6/30/95	3/31/05, 70 FR 16420	See also 52.2064(g)(1).
Buck Company Inc	36–2035	Lancaster	8/1/95	3/31/05, 70 FR 16420	See also 52.2064(g)(4).
*	*	*	*	*	*
Petrowax Refining	OP–42–110	McKean	3/4/96, 5/31/96	3/31/05, 70 FR 16423	See also 52.2064(g)(14).
*	*	*	*	*	*
Molded Fiber Glass	OP–25–035	Erie	7/30/99	11/1/05, 70 FR 65842	See also 52.2064(g)(17).
*	*	*	*	*	*
The International Metals Reclamation Co.	OP–37–243	Lawrence	8/9/00	3/31/06, 71 FR 16235	See also 52.2064(g)(13).
*	*	*	*	*	*
Conoco Phillips Company	OP–23–0003	Delaware	4/29/04	6/13/06, 71 FR 34011	See also 52.2064(g)(18).
*	*	*	*	*	*
Willamette Industries, Johnsonburgh Mill.	OP–24–009	Elk	5/23/95	6/13/06, 71 FR 34011	See also 52.2064(g)(7).
*	*	*	*	*	*
Merisol Antioxidants LLC	OP–61–00011	Venango	4/18/05	6/14/06, 71 FR 34259	See also 52.2064(g)(20).
*	*	*	*	*	*
The Carbide/Graphite Group, Inc.	OP–24–012	Elk	5/12/95	7/11/06, 71 FR 38993	See also 52.2064(g)(11).
*	*	*	*	*	*
Anvil International, LLC (formerly referenced as Grinnell Corporation).	36–05019	Lancaster	2/1/19	1/24/22, [insert **Federal Register** citation].	52.2064(g)(1).
ArcelorMittal Plate LLC Conshohocken Plant (formerly referenced as Bethlehem Lukens Plate).	46–00011	Montgomery	1/26/18	1/24/22, [insert **Federal Register** citation].	52.2064(g)(2).
Braskem America Inc. Marcus Hook (formerly referenced as Epsilon Products Co.—Marcus Hook).	23–00012	Delaware	3/2/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(3).

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/ §§ 52.2063 and 52.2064 citations [1]
Buck Co Inc. Quarryville (formerly referenced as Buck Company Inc).	36–05053	Lancaster	4/1/2020	1/24/22, [insert **Federal Register** citation].	52.2064(g)(4).
Calumet Karns City Refining LLC (formerly referenced as Penreco—Karns City).	10–027H	Butler	11/29/18	1/24/22, [insert **Federal Register** citation].	52.2064(g)(5).
Clarion Bathware Marble	16–00133	Clarion	12/19/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(6).
Domtar Paper Company Johnsonburg Mill (formerly referenced as Willamette Industries, Johnsonburgh Mill).	24–00009	Elk	2/25/2020	1/24/22, [insert **Federal Register** citation].	52.2064(g)(7).
Exelon Generation Company LLC Croydon Generating Station (formerly referenced as PECO Energy Co.—Croydon Generating Station).	09–00016	Bucks	4/11/18	1/24/22, [insert **Federal Register** citation].	52.2064(g)(8).
Georgia-Pacific Panel Products LLC Mt. Jewell MDF Plant.	42–158R	McKean	1/2/19	1/24/22, [insert **Federal Register** citation].	52.2064(g)(9).
GE Transportation Grove City Engine (formerly referenced as GE Transportation Systems).	43–00196	Mercer	11/7/19	1/24/22, [insert **Federal Register** citation].	52.2064(g)(10).
GrafTech USA LLC St Marys (formerly referenced as The Carbide/Graphite Group, Inc).	43–00196	Elk	5/1/19	1/24/22, [insert **Federal Register** citation].	52.2064(g)(11).
Haysite Reinforced Plastics LLC Erie.	25–00783	Erie	7/24/19	1/24/22, [insert **Federal Register** citation].	52.2064(g)(12).
INMETCO Ellwood City (formerly referenced as The International Metals Reclamation Co).	37–00243	Lawrence	12/6/2019	1/24/22, [insert **Federal Register** citation].	52.2064(g)(13).
International Waxes Inc Farmers Valley (formerly referenced as Petrowax Refining).	42–00011	McKean	2/21/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(14).
Jeld Wen Fiber Division PA	08–0003	Bradford	9/21/18	1/24/22, [insert **Federal Register** citation].	52.2064(g)(15).
Mars Wrigley Confectionery US LLC Elizabethtown.	36–05142	Lancaster	7/18/19	1/24/22, [insert **Federal Register** citation].	52.2064(g)(16).
Molded Fiber Glass Company Union City (formerly referenced as Molded Fiber Glass).	25–00035	Erie	2/5/2020	1/24/22, [insert **Federal Register** citation].	52.2064(g)(17).
Monroe Energy LLC Trainer (formerly referenced as Conoco Phillips Company).	23–00003	Delaware	6/5/17	1/24/22, [insert **Federal Register** citation].	52.2064(g)(18).
Nova Chemicals Company Beaver (formerly referenced as Nova Chemicals, Inc.).	004–00033	Beaver	4/2/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(19).
Sasol Chemicals USA LLC (formerly referenced as Merisol Antioxidants LLC).	61–00011	Venango	2/16/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(20).
Silberline Manufacturing Company Lincoln Drive Plant (formerly referenced as Silberline Manufacturing Co).	54–00041	Schuylkill	3/16/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(21).
Superior Tube Company Lower Providence (formerly referenced as Superior Tube Company).	46–00020	Montgomery	2/5/20	1/24/22, [insert **Federal Register** citation].	52.2064(g)(22).

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/ §§ 52.2063 and 52.2064 citations [1]
Victaulic Company Alburtis Facility.	39–00069	Lehigh	10/24/17	1/24/22, [insert **Federal Register** citation].	52.2064(g)(23).
Victaulic Forks Facility	48–0009	Northampton	10/24/17	1/24/22, [insert **Federal Register** citation].	52.2064(g)(24).

[1] The cross-references that are not § 52.2064 are to material that pre-date the notebook format. For more information, see § 52.2063.

* * * * *

■ 3. Amend § 52.2064 by adding paragraph (g) to read as follows:

§ 52.2064 EPA-approved Source-Specific Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X).

* * * * *

(g) Approval of source-specific RACT requirements for 1997 and 2008 8-hour ozone national ambient air quality standards for the facilities listed in this paragraph (g) are incorporated as specified. (Rulemaking Docket No. EPA–OAR–2021–0380.)

(1) Anvil International, LLC—Incorporating by reference Permit No. 36–05019, effective February 1, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 36–2019, effective June 30, 1995, remain as RACT requirements for Sources 501, 502, 503, and 196. See also § 52.2020(d)(1), for prior RACT approval.

(2) ArcelorMittal Plate LLC Conshohocken Plant—Incorporating by reference Permit No. 46–00011, effective January 26, 2018, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP–46–0011, effective December 11, 1998, remain as RACT requirements except for Conditions 8 and 9, which are superseded by the new permit. See also § 52.2063(c)(185)(i)(B)(*2*), for prior RACT approval.

(3) Braskem America Inc. Marcus Hook—Incorporating by reference Permit No. 23–00012, effective March 2, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP–23–0012, effective February 15, 1996, remain as RACT requirements. See also § 52.2063(c)(143)(i)(B)(*25*), for prior RACT approval.

(4) Buck Co Inc. Quarryville—Incorporating by reference Permit No. 36–05053, effective April 1, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 36–2035, effective August 1, 1995, remain as RACT requirements. See also § 52.2020(d)(1), for prior RACT approval.

(5) Calumet Karns City Refining LLC—Incorporating by reference Permit No. 10–027H, issued November 29, 2018, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 10–027, issued May 31, 1995 are superseded except for Condition No. 4 for Boiler No. 1, which remains as a RACT requirement. See also § 52.2063(c)(177)(i)(B)(*1*), for prior RACT approval.

(6) Clarion Bathware Marble—Incorporating by reference Permit No. 16–00133, effective February 19, 2020, as redacted by Pennsylvania.

(7) Domtar Paper Company Johnsonburg Mill—Incorporating by reference Permit No. 24–00009, effective February 25, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP–24–009, effective May 23, 1995, remain as RACT requirements. See also § 52.2020(d)(1), for prior RACT approval.

(8) Exelon Generation Company, LLC Croydon Generating Station—Incorporating by reference Permit No. 09–00016, effective April 11, 2018, as redacted by Pennsylvania, in addition to the prior RACT Permit No. OP–09–0016A, issued December 20, 1996 which also remains as RACT requirements except for condition 9.A. See also § 52.2063(c)(143)(i)(B)(*13*), for prior RACT approval.

(9) Georgia-Pacific Panel Products LLC Mount Jewell MDF—Incorporating by reference Permit No. 42–158R, effective January 2, 2019, as redacted by Pennsylvania.

(10) GE Transportation Grove City Engine—Incorporating by reference Permit No. 43–00196, effective October 7, 2019, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP–43–196, effective May 16, 2001, remain as RACT requirements except for Conditions 3 and 9. See also § 52.2020(d)(1), for prior RACT approval.

(11) GrafTech USA LLC St Marys–Incorporating by reference Permit No. 24–00012, effective May 1, 2019, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 24–012, effective May 12, 1995 remain as RACT requirements. See also § 52.2020(d)(1), for prior RACT approval.

(12) Haysite Reinforced Plastics LLC Erie– Incorporating by reference Permit No. 25–00783, effective July 24, 2019, as redacted by Pennsylvania.

(13) INMETCO Ellwood City—Incorporating by reference Permit No. 37–00243, effective December 6, 2019, as redacted by Pennsylvania, which supersedes the prior RACT I Permit No. OP–37–243, effective August 9, 2000, except for Condition 5 (but only to the extent Condition 5 incorporates the operation and maintenance requirements of Condition 6 of OP–37–243, effective September 1, 1995, for the furnaces), which remains as a RACT requirement. See also § 52.2020(d)(1), for prior RACT approval.

(14) International Waxes Inc Farmers Valley—Incorporating by reference Permit No.42–00011, effective February 21, 2020, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP–42–110, effective March 4, 1996, except for Conditions 8 and 9, which remain as RACT requirements. See also § 52.2020(d)(1), for prior RACT approval.

(15) Jeld Wen Fiber Division PA—Incorporating by reference Permit No. 08–00003, effective September 21, 2018, as redacted by Pennsylvania.

(16) Mars Wrigley Confectionery US LLC Elizabethtown—Incorporating by reference Permit No. 36–05142, effective July 18, 2019, as redacted by Pennsylvania.

(17) Molded Fiber Glass Co Union City—Incorporating by reference Permit No. 25–00035, effective February 5, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP–25–035, effective July 30, 1999, remain as RACT requirements. See also § 52.2020(d)(1), for prior RACT approval.

(18) Monroe Energy LLC Trainer—Incorporating by reference Permit No. 23–00003, effective June 5, 2017, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 23–0003, effective April 29, 2004, remain as RACT requirements. See also § 52.2020(d)(1), for prior RACT approval.

(19) Nova Chemicals Company Beaver—Incorporating by reference Permit No. 04–00033, issued April 2, 2020, as redacted by PADEP, which supersedes prior RACT Permit No. 04–000333, issued April 16, 1999 and reissued January 24, 2001. See also § 52.2063(c)(173)(i)(B)(*4*), for prior RACT approval.

(20) Sasol Chemicals USA LLC—Incorporating by reference Permit No. 61–00011, effective February 16, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 61–011, effective April 18, 2005, remain as RACT requirements, except for the bypass limitation in Condition 12 (applicable to Source 107, 314/340 Distillation Columns), which is superseded by the new permit. See also § 52.2020(d)(1), for prior RACT approval.

(21) Silberline Manufacturing Company Lincoln Drive Plant–Incorporating by reference Permit No. 54–00041, effective March 16, 2020, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. 54–0041, effective April 19, 1999, remain as RACT requirements. See also § 52.2063(c)(143)(i)(B)(*44*), for prior RACT approval.

(22) Superior Tube Company Lower Providence—Incorporating by reference Permit No. 46–00020, effective February 5, 2020, as redacted by Pennsylvania, which supersedes the prior RACT I Permit No OP–46–0020, effective April 17, 1998, except for the facility-wide NO_X emissions limit found in Condition 4 and Conditions 5, 10, 11, 13, 14, and 15, which remain as RACT requirements. See also § 52.2063(c)(136)(i)(B)(*13*), for prior RACT approval.

(23) Victaulic Company Alburtis Facility—Incorporating by reference Permit No. 39–00069, effective October 24, 2017, as redacted by Pennsylvania.

(24) Victaulic Forks Facility—Incorporating by reference Permit No. 48–00009, effective October 24, 2017, as redacted by Pennsylvania.

[FR Doc. 2021–27231 Filed 1–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0352; FRL–9419–01–OCSPP]

Nitrapyrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of nitrapyrin in or on cottonseed, crop subgroup 20C; cotton, gin byproducts; cotton, meal; rice, grain; and rice, straw. Corteva Agrosciences requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective January 24, 2022. Objections and requests for hearings must be received on or before March 25, 2022 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–2021–0352, is available at *https://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 (202) 566–0294.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *ADFRNotices@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 EPA's tolerance regulations at 40 CFR part 180 through the Office of the **Federal Register**'s e-CFR site at *https://www.ecfr.gov/current/title-40.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0352 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 March 25, 2022. 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–2021–0352, by one of the following methods:

- *Federal eRulemaking Portal: https://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 *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about

dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 24, 2021 86 FR 47275 (FRL–8792–02–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F8875) by Corteva Agrosciences, 9330 Zionsville Rd., Indianapolis, IN 46268. The petition requested that 40 CFR 180.350 be amended by establishing a tolerance for combined residues or residues of the nitrification inhibitor nitrapyrin and its metabolite, 6-chloropicolinic acid (6–CPA), in or on cottonseed crop subgroup 20C; cotton, gin byproducts; cotton, meal; rice, grain; and rice, straw at 4.0, 0.6, 6.0, 0.03 and 0.15 parts per million (ppm), respectively. That document referenced a summary of the petition prepared by Corteva Agrosciences, the registrant, which is included in the docket. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for a tolerance for combined residues or residues of nitrapyrin and its metabolite, 6-chloropicolinic acid (6–CPA), in or on cottonseed crop subgroup 20C; cotton, gin byproducts; cotton, meal; rice, grain; and rice, straw at 4.0, 0.6, 6.0, 0.03 and 0.15 parts per million (ppm), respectively. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking and republishing the same sections is unnecessary. EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a number of tolerance rulemakings for nitrapyrin, in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to nitrapyrin and established tolerances for residues of that chemical. EPA is incorporating previously published sections from those rulemakings as described further in this rulemaking, as they remain unchanged. On August 27, 2019, EPA published in the **Federal Register** a final rule establishing tolerances for residues of nitrapyrin in or on sugar beet molasses, sugar beet roots, sugar beet tops, rapeseed seed, and the vegetable, tuberous and corm, crop subgroup 1C. See (85 FR 48651) (FRL–10009–42). That document contains a summary of the toxicological profile, assumptions for dietary exposure assessment, cumulative risk, and the safety factor for children, which have not changed. More detailed information on the subject action to establish a tolerance in or on cotton and rice can be found in the document titled, ''Nitrapyrin. Human Health Risk Assessment for New Uses in/on Cotton and Rice,'' dated December 8, 2021 by going to *https://www.regulations.gov.* The referenced document is available in the docket EPA–HQ–OPP–2021–0352.

Toxicological profile. For a discussion of the Toxicological Profile of nitrapyrin, see Unit III of the August 12, 2020 rulemaking (85 FR 48651) (FRL–10009–42). There have been no changes to the toxicological endpoints since the last risk assessment.

Toxicological points of departure/Levels of concern. For a summary of the Toxicological Points of Departure/Levels of Concern for nitrapyrin, see the document titled: ''Nitrapyrin. Human Health Risk Assessment for New Uses in/on Cotton and Rice,'' dated December 8, 2021, in docket number EPA–HQ–OPP–2021–0352.

Exposure assessment. EPA's dietary exposure assessments have been updated to include the additional exposure from the new uses of nitrapyrin on cotton and rice. The assessment used the same assumptions as the August 12, 2020 final rule concerning tolerance-level residues, default processing factors for all processed commodities, and 100 percent crop treated.

Drinking water exposure. EPA has revised the nitrapyrin drinking water assessment since the August 12, 2020 final rule. Surface water and groundwater modeling were simulated using the Pesticide in Water Calculator (PWC version 2.0; Sep. 18, 2020) for use on cotton. The Pesticides in Flooded Applications Model (PFAM; version 2.0; Sep. 27, 2016) was also used in surface water modeling for use on rice. The highest estimated drinking water concentrations (EDWCs) are 124 μg/L for acute exposure and 111 μg/L for chronic exposure from ground water sources based on the Florida (FL) central ridge model scenarios.

Non-occupational exposure. There are no currently registered or proposed residential uses for nitrapyrin; therefore, residential handler and post-application exposure and risks were not assessed.

Cumulative exposures. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to nitrapyrin and any other substances and nitrapyrin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that nitrapyrin has a common mechanism of toxicity with other substances.

Safety factor for infants and children. EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor. See Unit III of the August 12, 2020 final rule for a discussion of the Agency's rationale for that determination.

Aggregate risk and determination of safety. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term risks are evaluated by

comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

The acute dietary (food and water) risk estimates are below EPA's level of concern for all population subgroups (<100% of the acute population adjusted dose (aPAD)). The population subgroup with the highest acute risk estimate is all-infants (<1 year-old), at 14% of the aPAD. The chronic dietary (food and water) risk estimates are below HED's level of concern for all population subgroups (<100% of the chronic adjusted population dose (cPAD)). The population subgroup with the highest chronic risk estimate is children (1 to 2 years old) at 26% of the cPAD.

Since there are no registered residential uses, the acute and chronic aggregate exposure and risk assessment are equivalent to the dietary (food and drinking water) exposure and risk estimates and are below EPA's level of concern (<26% of the cPAD). Nitrapyrin is classified as ''not likely to be carcinogenic to humans at doses that do not result in constitutive androstane receptor (CAR) activation as indicated by *Cyp2b10* expression''. Therefore, the chronic dietary endpoint and assessment are protective of all chronic risks, including potential carcinogenic effects. More detailed information can be found at *https://www.regulations.gov* in the document titled ''Nitrapyrin. Human Health Risk Assessment for the Section 3 Registration Action for New Uses on in/on Cotton and Rice,'' dated December 8, 2021 by going to *https://www.regulations.gov.* The referenced document is available in the docket EPA–HQ–OPP–2021–0352.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography with electron capture detection) is available to enforce the tolerance expression. Seven analytical methods are available in Volume II of the Pesticide Analytical Manual (PAM II—Pesticide Reg. Sec. 180.350) for tolerance enforcement for nitrapyrin and/or for metabolite 6–CPA.

B. International Residue Limits

Codex and Canada have not established maximum residue limits (MRLs) for residues of nitrapyrin. Therefore, there are no issues related to international harmonization. A summary of the MRLs can be found in Appendix D of the document titled ''Nitrapyrin. Human Health Risk Assessment for the Section 3 Registration Action for New Uses on in/on Cotton and Rice,'' dated December 8, 2021 by going to *https://www.regulations.gov.* The referenced document is available in the docket EPA–HQ–OPP–2021–0352.

C. Revisions to Petitioned-For Tolerances

Rice straw is no longer considered a significant livestock feed item and a tolerance is therefore unnecessary. Additionally, tolerance values for cottonseed crop subgroup 20C, cotton, gin byproducts and cotton meal are being established consistent with the Agency's rounding class practice.

V. Conclusion

Therefore, tolerances are established for the residues of nitrapyrin in or on cottonseed crop subgroup 20C at 4 parts per million (ppm); cotton, gin byproducts at 0.6 ppm; cotton, meal at 6 ppm; and rice, grain at 0.03 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances 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 tolerances 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).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 19, 2022.

Anita Pease,

Director, Antimicrobials Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.350, amend the table in paragraph (a) by adding a table heading and, in alphabetical order, the entries ''Cottonseed subgroup 20C''; ''Cotton, gin byproduct''; ''Cotton, meal''; and ''Rice, grain'' to read as follows:

§ 180.350 Nitrapyrin; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	
Cottonseed subgroup 20C ...	4
Cotton, gin byproduct	0.6
Cotton, meal	6
* * * * *	
Rice, grain	0.03
* * * * *	

* * * * *

[FR Doc. 2022–01248 Filed 1–21–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 114, 116, 118, 122, 175, 177, 181, and 185

[Docket No. USCG–2021–0306]

RIN 1625–AC69

Fire Safety of Small Passenger Vessels; Correction

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; correction.

SUMMARY: The Coast Guard is correcting an interim rule that appeared in the **Federal Register** on December 27, 2021. The interim rule announced changes to small passenger vessel fire safety regulations. The interim rule has an effective date of March 28, 2022. This correction fixes incorrect cross references in the regulatory text of that interim rule.

DATES: This correction is effective on March 28, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions on this correction, please contact Lieutenant Carmine Faul, Coast Guard; telephone 202–475–1357, email *carmine.a.faul@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Correction

In FR Doc. 2021–27549, published at 86 FR 73160 on December 27, 2021, the Coast Guard is correcting incorrect cross references in the regulatory text of § 114.110(g)(1). On page 73171, published in the first column, the interim rule referenced incorrect paragraphs in the second amendatory instruction for § 114.110(g)(1). There, the interim rule incorrectly referenced the requirements in §§ 118.400(c) and 118.500r. We are correcting the interim rule to instead cross reference §§ 118.400(d) and 118.500 in § 114.110(g)(1). The interim rule added new § 118.400(d) which requires certain small passenger vessels to install an interconnected fire detection system. Referencing paragraph (c) of § 118.400 was a typographical error. Additionally, § 118.500r does not exist. The ''r'' is a typographical error.

In FR Doc. 2021–27549, appearing on page 73171 in the **Federal Register** of Monday, December 27, 2021, the following correction is made:

§ 114.110 [Corrected]

■ 1. On page 73171, in the first column, in part 114, in amendment 2, in the regulatory text of § 114.110(g)(1), the text ''118.400(c) and 118.500r'' is corrected to read ''118.400(d) and 118.500''.

Dated: January 19, 2022.

M.T. Cunningham,

Chief, Office of Regulations and Administrative Law.

[FR Doc. 2022–01247 Filed 1–21–22; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
Vol. 87, No. 15
Monday, January 24, 2022

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 ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0039]

RIN 1904–AE32

Energy Conservation Program: Energy Conservation Standards for Dishwashers, Webinar and Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of a webinar and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') will hold a webinar to discuss and receive comments on the preliminary analysis it has conducted for purposes of evaluating energy conservation standards for dishwashers. The webinar will cover the analytical framework, models, and tools that DOE is using to evaluate potential standards for this product; the results of preliminary analyses performed by DOE for this product; the potential energy conservation standard levels derived from these analyses that DOE could consider for this product should it determine that proposed amendments are necessary; and any other issues relevant to the evaluation of energy conservation standards for dishwashers. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document (''TSD''), and briefing materials, which are available on the DOE website at: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=38&action=viewlive.*

DATES: *Meeting:* DOE will hold a webinar on Tuesday, February 22, 2022, from 12:30 p.m. to 4:30 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

Comments: Written comments and information will be accepted on or before, March 25, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0039, by any of the following methods:

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

2. *Email:* To *Dishwashers2019STD0039@ee.doe.gov.* Include docket number EERE–2019–BT–STD–0039 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing corona virus 2019 (''COVID–19'') pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, public meeting transcripts, 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.

The docket web page can be found at *www.regulations.gov/docket/EERE–2019–BT–STD–0039.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *amelia.whiting@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

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) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include dishwashers, the subject of this document. (42 U.S.C. 6292(a)(6))

EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(g)(1) and 10(A)), and directs DOE to conduct future rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(g)(4)) EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

Under EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE is publishing this Preliminary Analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including dishwashers. As noted, EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3))

To adopt any new or amended standards for a covered product, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6295(o)(3)(B)) The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[3] For example, the United States rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing greenhouse gas (''GHG'') emissions in order to limit the rise in mean global temperature. As such, energy savings that reduce GHG emission have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and full-fuel-cycle (''FFC'') effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards.

Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis. DOE estimates a combined total of 0.68 quads of FFC energy savings at the max-tech efficiency levels for dishwashers. This represents 7.6 percent energy savings relative to the no-new-standards case energy consumption for dishwashers. DOE has initially determined the energy savings for the candidate standard levels considered in this preliminary analysis are ''significant'' within the meaning of 42 U.S.C. 6295(o)(3)(B).

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)).

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy and Water Use Analysis.

[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] See 86 FR 70892, 70901 (Dec. 13, 2021).

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS—Continued

EPCA requirement	Corresponding DOE analysis
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis. • Shipments Analysis.
2. Lifetime operating cost savings compared to increased cost for the product.	• Markups for Product Price Analysis. • Energy and Water Use Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits. • Regulatory Impact Analysis.

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for dishwashers address standby mode and off mode energy use. In this document, DOE intends to incorporate such energy use into any amended energy conservation standards it adopts in the final rule.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This notification announces the availability of the preliminary TSD, which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public webinar to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (''appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for an energy conservation standards rulemaking. Section 6(a)(2) of appendix A states that if the Department determines it is appropriate to proceed with a rulemaking, the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking (''ANOPR''). DOE is opting to deviate from this step by publishing a preliminary analysis without a

framework document. A framework document is intended to introduce and summarize generally the various analyses DOE conducts during the rulemaking process and requests initial feedback from interested parties. As discussed further in the following section, prior to this notification of the preliminary analysis, DOE issued an early assessment request for information (''RFI'') in which DOE discussed the most recent energy conservation standards rulemaking (81 FR 90072; December 13, 2016 (the ''December 2016 Final Determination'')). 85 FR 64981 (Oct. 14, 2020) (the ''October 2020 Early Assessment RFI''). In the October 2020 Early Assessment RFI, DOE also requested comment on whether there were changes to the technologies considered as part of the December 2016 Final Determination that would affect whether DOE could propose a ''no-new standards determination'' and on any aspect of its economic justification analysis. 85 FR 64981, 64983. DOE provided a 75-day comment period for the October 2020 Early Assessment RFI. 85 FR 64981. While DOE received comments on the assumptions employed in the analysis conducted in support of the December 2016 Final Determination (*see e.g.,* comment from the Association of Home Appliance Manufacturers, Docket EERE–2019–BT–STD–0039, No. 6 at pp. 8–9), DOE did not receive comments or data suggesting DOE rely on a different analytical framework to that conducted for the December 2016 Final Determination. As DOE is intending to rely on substantively the same analytical methods as in the most recent rulemaking, publication of a framework document would not introduce an analytical framework different from that on which comment was requested in the early assessment RFI and on which comment was received. As such, DOE is not publishing a framework document.

Section 6(d)(2) of appendix A specifies that the length of the public comment period for pre-NOPR rulemaking documents will vary depending upon the circumstances of the particular rulemaking, but will not be less than 75 calendar days. For this preliminary analysis, DOE has opted to instead provide a 60-day comment period. As stated, DOE requested comment in the October 2020 Early Assessment RFI on the analysis conducted in support of the December 2016 Final Determination and provided stakeholders a 75-day comment period. For this preliminary analysis, DOE has relied on substantively the same analytical framework as used in the previous rulemaking. As stated, DOE did not receive comments in response to the October 2020 Early Assessment RFI suggesting a change to DOE's approach. Given that DOE is relying on substantively the same analytical approach as conducted for the December 2016 Final Determination, DOE has determined that a 60-day comment period in conjunction with the prior 75-day comment period provides sufficient time for interested parties to review the tentative methodologies and the preliminary analysis, and develop comments.

II. Background

A. Current Standards

In a direct final rule published on May 30, 2012 (''May 2012 Direct Final Rule''), DOE prescribed the current energy conservation standards for dishwashers manufactured on and after May 30, 2013. 77 FR 31918. In the December 2016 Final Determination, DOE concluded that amended energy conservation standards would not be economically justified at any level above the standards established in the May 2012 Direct Final Rule, and therefore determined not to amend the standards. 81 FR 90072. The current energy and water conservation standards are located in 10 CFR part 430, § 430.32(f), and are repeated in Table II.1. The currently applicable DOE test procedure for dishwashers appears at 10 CFR part 430 subpart B, appendix C1 (''Appendix C1'').

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR DISHWASHERS

Dishwasher classification	Maximum annual energy use * (kWh/year)	Maximum per-cycle water consumption (gallons/cycle)
Standard Dishwasher	307	5.0
Compact Dishwasher	222	3.5

* Using 215 annual cycles.

On October 30, 2020, DOE published a final rule establishing a separate product class for standard-size dishwashers with a cycle time for the ''normal'' cycle of less than one hour (*i.e.,* 60 minutes) from washing through drying. 85 FR 68723. Subsequently, on August 11, 2021, DOE published a NOPR proposing to revoke the final rule that established the new product class for dishwashers. 86 FR 43970. On January 11, 2022, DOE issued a final rule revoking the final rule that established a new product class for dishwashers.[4] Accordingly, DOE addressed only the two current product classes for dishwashers as part of the present evaluation.

B. Current Process

In the October 2020 Early Assessment RFI, DOE stated that it was initiating an early assessment review to determine whether any new or amended standards would satisfy the relevant requirements of EPCA for a new or amended energy conservation standard for dishwashers. 85 FR 64981. Specifically, DOE sought data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. *Id.*

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy use; (4) life-cycle cost (''LCC'') and payback period (''PBP''); and (5) national impacts. The preliminary TSD that presents the methodology and

[4] Energy Conservation Program: Product Classes for Residential Dishwashers, Residential Clothes Washers, and Consumer Clothes Dryers. *https://www.energy.gov/sites/default/files/2022-01/short-cycle-product-class-fr.pdf.*

results of each of these analyses is available at *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=38&action=viewlive.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (''NIA''). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR should one be issued.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including general characteristics of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment include: (1) A determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of the product.

See chapter 3 of the preliminary TSD for further discussion of the market and technology assessment.

B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility or product availability.* If it is determined that a technology would have a significant adverse impact on the utility of the product for significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns. 10 CFR part 430, subpart C, appendix A, 6(b)(3) and 7(b).

If DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

See chapter 4 of the preliminary TSD for further discussion of the screening analysis.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of dishwashers. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the manufacturer production cost (''MPC'') for the baseline as well as higher efficiency levels. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

DOE converts the MPC to the manufacturer selling price (''MSP'') by applying a manufacturer markup. The MSP is the price the manufacturer charges its first customer, when selling into the dishwasher distribution channels. The manufacturer markup accounts for manufacturer non-production costs and profit margin. DOE developed the manufacturer markup by examining publicly available financial information for manufacturers of the covered product.

See chapter 5 of the preliminary TSD for additional detail on the engineering analysis and chapter 12 of the preliminary TSD for additional detail on the manufacturer markup.

D. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[5]

Chapter 6 of the preliminary TSD provides details on DOE's development of markups for dishwashers.

E. Energy and Water Use Analysis

The purpose of the energy and water use analysis is to determine the annual energy consumption of dishwashers at different efficiencies in representative U.S. single-family homes, multi-family residences, and mobile homes, and to assess the energy and water savings

[5] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

potential of increased dishwasher efficiency. The energy and water use analysis estimates the range of energy and water use of dishwashers in the field (*i.e.,* as they are actually used by consumers). The energy and water use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Chapter 7 of the preliminary TSD addresses the energy and water use analysis.

F. Life-Cycle Cost and Payback Period Analyses

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (MSP, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy and water use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that the amended or new standards are assumed to take effect.

Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

G. National Impact Analysis

The NIA estimates the national energy savings (''NES'') and the net present value (''NPV'') of total consumer costs and savings expected to result from dishwasher standards at specific efficiency levels (referred to as candidate standard levels).[6] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of dishwashers sold from 2027 through 2056.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards (''no-new-standards case'') with standards-case projections. The no-new-standards case characterizes energy and water use and consumer costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each dishwasher product class if DOE adopted new or amended standards at specific efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of dishwashers with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each efficiency level. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy and water consumption, the no-new-standards case and standards case efficiency projections, and discount rates.

DOE estimates a combined total of 0.4 quads of site energy savings at the max-tech efficiency levels for dishwashers. Combined site energy savings at Efficiency Level 1 for both product classes are estimated to be 0.003 quads.

Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites public participation in this process through participation in the webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for dishwashers need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by that rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

A. Participation in the Webinar

The time and date for the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=38&action=viewlive.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this document and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this document and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but

[6] The NIA accounts for impacts in the 50 states.

DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the document.

The webinar will be conducted in an informal, conference style. DOE will present summaries of comments received before the webinar, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this document. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this preliminary analysis no later than the date provided in the **DATES** section at the beginning of this notification of a webinar and availability of preliminary technical support document. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies Office staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email to *Dishwashers2019STD0039@ee.doe.gov* two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of a webinar and availability of preliminary technical support document.

Signing Authority

This document of the Department of Energy was signed on January 16, 2022, by Kelly J. Speakes-Backman, Principal Deputy 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 January 18, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–01157 Filed 1–21–22; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2022–BT–TP–0003]

Energy Conservation Program: Test Procedure for Dedicated-Purpose Pool Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is undertaking a review to determine whether amendments are warranted for the test procedure for dedicated-purpose pool pumps. Specifically, through this request for information (''RFI''), DOE has identified certain issues associated with the currently applicable test procedure on which DOE is interested in receiving comment. The issues outlined in this document mainly concern the scope of coverage, updated industry test procedures, and the definition of a basic model. DOE welcomes written comments from the public on any subject within the scope of this document, including topics not raised in this request for information (''RFI'').

DATES: Written comments and information are requested and will be accepted on or before February 23, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2022–BT–TP–0003, by any of the following methods:

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

2. *Email: DPPP2022TP0003@ee.doe.gov.* Include docket number EERE–2022–BT–TP–0003 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing coronavirus (''COVID–19'') pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, 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.

The docket web page can be found at *www.regulations.gov/docket/EERE-2022-BT-TP-0003.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588; Email: *amelia.whiting@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

This RFI requests information and data regarding whether an amended test procedure would more accurately and fully comply with the requirement that the test procedure produce results that measure energy use during a representative average use cycle for the equipment, and not be unduly burdensome to conduct. To inform interested parties and to facilitate this process, DOE has identified several issues associated with the currently applicable test procedures on which DOE is interested in receiving comment.

Pumps are included in the list of ''covered equipment'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(A)) Dedicated-purpose pool pumps (''DPPPs''), which are the subject of this document, are a subset of pumps; thus DOE is authorized to establish test procedures and energy conservation standards for them. Relevant to this document, DOE has established test procedures for DPPPs at 10 CFR 431.464(b) and appendices B and C to subpart Y of part 431 (''Appendix B'' and ''Appendix C'', respectively). The following sections discuss DOE's authority to establish and amend test procedures for DPPPs, as well as relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority and Background

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of several consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA, added by Public Law 95–619, Title IV, section 441(a) (42 U.S.C. 6311–6317 as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. ''Pumps'' are listed as a type of industrial equipment covered by EPCA, although EPCA does not define the term ''pump.'' (42 U.S.C. 6311(1)(A)) DOE defines ''pump'' as equipment designed to move liquids (which may include entrained gases, free solids, and totally dissolved solids) by physical or mechanical action, includes a bare pump, and, if included by the manufacturer at the time of sale, mechanical equipment, driver, and controls. 10 CFR 431.462. Dedicated-purpose pool pumps, which are the subject of this RFI, meet this definition of a pump and are covered under the pump equipment type.

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 include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a)); 42 U.S.C. 6297) 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. 6316(b)(2)(D))

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a given type of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

EPCA also requires that, at least once every 7 years, DOE review test procedures for all types of covered equipment, including DPPPs, to determine whether amended test procedures would more accurately or fully comply with the requirements that the test procedures be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle and to not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(1) In addition, if the Secretary determines that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register**, and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b)) 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 RFI to collect data and information to inform its decision in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6314(a)(1))

B. Rulemaking History

DOE's test procedure for determining DPPP energy efficiency was established in a final rule published on August 7, 2017. 82 FR 36858 (''August 2017 Final Rule''). The August 2017 Final Rule established a definition for the term ''dedicated-purpose pool pump'' and described several categories of DPPPs. The DPPP test procedure currently incorporates by reference the Hydraulic Institute (''HI'') Standard 40.6–2014, ''Methods for Rotodynamic Pump Efficiency Testing'' (''HI 40.6–2014''), along with several modifications to that testing method related to measuring the hydraulic power, the true power factor, and the maximum head. 82 FR 36858, 36861. The definitions, DPPP test procedure, sampling provisions, enforcement requirements, and labeling requirements contained in the August 2017 DPPP TP Final Rule reflect the recommendations of the DPPP Working Group contained in both the December 2015 and June 2016 DPPP Working Group Recommendations (82 FR 36858, 36860).

II. Request for Information

DOE has identified specific issues on which it seeks input to aid in its analysis of whether an amended test procedure for dedicated-purpose pool pumps would more accurately or fully comply with the requirement that the test procedure produces results that measure energy use during a representative average use cycle for the product, and not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

In addition, DOE notes that since publication of the August 2017 Final Rule, as well as the energy conservation standards direct final rule,[3] it has received inquiries from stakeholders related to implementation of and compliance with the regulatory requirements for DPPPs. This RFI discusses these issues and identifies additional information that would be needed if DOE decided to propose amending its current test procedure.

Additionally, DOE welcomes comments on any aspect of the existing test procedures for DPPPs and on other relevant issues that may not be specifically identified in this document.

A. Definitions

DPPPs are a category of pumps, and the term ''dedicated-purpose pool pump'' comprises self-priming pool filter pumps, non-self-priming pool filter pumps, waterfall pumps, pressure cleaner booster pumps, integral sand-filter pool pumps, integral-cartridge filter pool pumps, storable electric spa pumps, and rigid electric spa pumps. 10 CFR 431.462.

DOE also defines a number of the terms used in the DPPP definition:

Integral cartridge-filter pool pump means a pump that requires a removable cartridge filter, installed on the suction side of the pump, for operation; and the cartridge filter cannot be bypassed.

Integral sand-filter pool pump means a pump distributed in commerce with a sand filter that cannot be bypassed.

[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 C was redesignated Part A–1.

[3] Energy conservation standards direct final rule for dedicated-purpose pool pumps published January 18, 2017 (82 FR 5650) and confirmed on May 26, 2017 (82 FR 24218).

Non-self-priming pool filter pump means a pool filter pump that is not certified under NSF/ANSI 50–2015 (incorporated by reference, see § 431.463) to be self-priming and is not capable of re-priming to a vertical lift of at least 5.0 feet with a true priming time less than or equal to 10.0 minutes, when tested in accordance with section F of appendix B or C of this subpart, and is not a waterfall pump.

Pool filter pump means an end suction pump that:

(1) Either: (i) Includes an integrated basket strainer; or (ii) Does not include an integrated basket strainer, but requires a basket strainer for operation, as stated in manufacturer literature provided with the pump; and

(2) May be distributed in commerce connected to, or packaged with, a sand filter, removable cartridge filter, or other filtration accessory, so long as the filtration accessory are connected with consumer-removable connections that allow the filtration accessory to be bypassed.

Pool pump timer means a pool pump control that automatically turns off a dedicated-purpose pool pump after a run-time of no longer than 10 hours.

Pressure cleaner booster pump means an end suction, dry rotor pump designed and marketed for pressure-side pool cleaner applications, and which may be UL listed under ANSI/UL 1081–2016 (incorporated by reference, see § 431.463).

Rigid electric spa pump means an end suction pump that does not contain an integrated basket strainer or require a basket strainer for operation as stated in manufacturer literature provided with the pump and that meets the following three criteria:

(1) Is assembled with four through bolts that hold the motor rear endplate, rear bearing, rotor, front bearing, front endplate, and the bare pump together as an integral unit;

(2) Is constructed with buttress threads at the inlet and discharge of the bare pump; and

(3) Uses a casing or volute and connections constructed of a non-metallic material.

Self-priming pool filter pump means a pool filter pump that is certified under NSF/ANSI 50–2015 (incorporated by reference, see § 431.463) to be self-priming or is capable of re-priming to a vertical lift of at least 5.0 feet with a true priming time less than or equal to 10.0 minutes, when tested in accordance with section F of appendix B or C of the DPPP test procedure, and is not a waterfall pump.

Storable electric spa pump means a pump that is distributed in commerce with one or more of the following:

(1) An integral heater; and

(2) An integral air pump.

Submersible pump means a pump that is designed to be operated with the motor and bare pump fully submerged in the pumped liquid.

Waterfall pump means a pool filter pump with a certified maximum head less than or equal to 30.0 feet, and a maximum speed less than or equal to 1,800 rpm.

Issue 1: DOE requests comment on the definitions of DPPPs and DPPP varieties and whether any of the terms should be amended, and if so, how the terms should be amended. In particular, DOE requests comment on whether the terms are sufficient to identify which equipment is subject to the test procedure and whether any test procedure amendments are required to ensure that all such equipment can be appropriately tested in accordance with the test procedure.

The definitions of integral cartridge-filter pool pumps and integral sand-filter pool pumps depend on the defined term ''integral'' and on the term ''bypassed.'' The definitions of these pump varieties do not explicitly provide whether removing the filtration media constitutes bypassing the filter.

Issue 2: DOE requests comment on whether it should define the term ''bypass,'' whether it should provide additional detail for the definition of the term ''integral,'' or whether the existing definitions are sufficient to determine the classification of individual DPPPs. If additional detail is necessary for either of these terms, please specify what detail should be provided to determine the classification of such DPPPs.

The energy conservation standards for integral cartridge-filter pool pumps and integral sand-filter pool pumps at 10 CFR 431.465 require that each pump that is manufactured starting on July 19, 2021 must be distributed in commerce with a pool pump timer that is either integral to the pump or a separate component shipped with the pump. 10 CFR 431.465(g) As described, the term ''pool pump timer'' is defined as a pool pump control that automatically turns off a DPPP after a run-time of no longer than 10 hours. The definition of pool pump timer does not describe whether the timer may be user-adjustable (*e.g.,* to accommodate time periods other than 10 hours) or, if the timer is user-adjustable, whether it must be supplied with a preset operating time of 10 hours.

Issue 3: DOE requests comment on whether it should provide additional detail in the definitions of pool pump timers and integral filter housings regarding the requirements of the pool pump timer, or whether the existing definitions are sufficient to determine the compliance status of individual DPPPs. If additional detail is warranted, please specify what detail should be added.

B. Scope

The current Federal test procedures at 10 CFR 431.464(b) apply to self-priming and non-self-priming pool filter pumps with hydraulic output power less than 2.5 horsepower, waterfall pumps, and pressure cleaner booster pumps. 10 CFR 431.464(b)(1)(i). Additionally, submersible pumps are not covered by the test procedure. 10 CFR 431.464(b)(1)(iii)(A).

The ASRAC DPPP Working Group focused on self-priming and non-self-priming pool filter pumps with hydraulic output power less than 2.5 horsepower, which are typically installed in residential applications. (Docket No. EERE–2015–BT–0008, No. 82, pp. 1–2). Very large pool filter pumps, with hydraulic output of 2.5 horsepower or more, are more commonly installed in commercial applications, where the head and flow characteristics are significantly different from residential installations. Because of these differences, a test procedure for very large pool filter pumps would require unique load points. The ASRAC DPPP Working Group also noted a lack of performance data for these very large pool filter pumps, which prevented the group from negotiating standards for these pumps, and therefore they did not recommend a test procedure either. (Docket No. EERE–2015–BT–STD–0008, No. 53 at pp. 197–198; Docket No. EERE–2015–BT–STD–0008, No. 79 at pp. 33–34, pp. 41–42, pp. 44–48, pp. 50–53) For these reasons, DOE did not adopt a test procedure or standards for pool filter pumps with hydraulic output power greater than or equal to 2.5 horsepower.

Following adoption of the test procedure and energy conservation standards for DPPPs, manufacturers identified several models of DPPPs that are designed and marketed for commercial applications but do in fact have hydraulic output power less than 2.5 horsepower. The Office of the General Counsel has issued an enforcement policy statement regarding these DPPPs.[4] The policy states that DOE will not enforce the testing, labeling, certification, and standards compliance requirements for DPPPs

[4] *www.energy.gov/gc/articles/direct-purpose-pool-pumps-enforcement-policy.*

meeting all of the following three criteria:

(1) The orifice on the pump body that accepts suction side plumbing connections has an inner diameter of greater than 2.85 inches; and

(2) The pump has a measured performance of ≥200 gallons per minute (gpm) at 50 feet of head as determined in accordance with appendix B or C (as applicable) to subpart Y of part 431, section I.A.1 (When determining overall efficiency, best efficiency point, or other applicable pump energy performance information, section 40.6.5.5.1, ''Test procedure''; section 40.6.6.2, ''Pump efficiency''; and section 40.6.6.3, ''Performance curve'' must be used, as applicable); and

(3) The pump is marketed exclusively for commercial applications.

As explained in the enforcement policy statement, these pumps were not considered during the ASRAC negotiations, but were not explicitly exempted in the regulatory text.

Issue 4: DOE requests comment on whether it should expand the scope of the DPPP test procedure to include pumps designed for commercial applications, including those subject to the enforcement policy and/or pool filter pumps with hydraulic output power greater than or equal to 2.5 horsepower. If so, DOE seeks information on which test points and system curves would be appropriate to measure performance of these DPPPs.

C. Test Procedure

DOE specifies the weighted energy factor (''WEF'') as the test metric for self-priming pool filter pumps, non-self-priming pool filter pumps, waterfall pumps, and pressure cleaner booster pumps. 10 CFR 431.464(b). Generally, the WEF metric is a ratio of the measured water flow to the driver power input to the tested pump. For single-speed DPPPs, the WEF metric represents pump performance at a single test point. For two-speed and multiple-speed DPPPs, the WEF metric represents a weighted average of pump performance at two test points. Section I.D.3 of appendix B and appendix C to subpart Y of part 431.

1. Updates to Industry Test Procedures

DOE's established practice is to adopt industry standards as DOE test procedures unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA) or estimated operating costs of that product during a representative average use cycle. 10 CFR 431.4; 10 CFR part 430 subpart C appendix A section 8(c). In cases where the industry testing standard does not meet the EPCA statutory criteria for test procedures, DOE will make any necessary modifications to these testing standards through the rulemaking process when adopting them for inclusion into DOE's regulations.

a. HI Standard 40.6

DOE's test procedure for pumps incorporates by reference HI 40.6–2014, *Methods for Rotodynamic Pump Efficiency Testing,* (''HI 40.6–2014''), with exceptions, specified at 10 CFR 431.463. HI 40.6–2014 defines and explains how to calculate driver power input, volume per unit time, pump total head, pump power output, overall efficiency, and other relevant quantities necessary to determine the weighted energy factor (''WEF''). HI 40.6–2014 specifies the test setup, methodology, standard rating conditions, and tolerances of test equipment. Subsequent to the development of the August 2017 Final Rule,[5] the Hydraulic Institute (HI) updated HI 40.6–2014 with the publication of HI Standard 40.6–2016, ''Methods for Rotodynamic Pump Efficiency Testing'' (''HI 40.6–2016''). This update aligned the definitions and procedures described in HI Standard 40.6 with the DOE test procedure for commercial and industrial pumps, which published on January 25, 2016 (81 FR 4086). However, the DOE test procedure for commercial and industrial pumps explicitly excludes DPPPs from scope.[6] Nonetheless, DOE has reviewed the relevant sections of HI 40.6–2016 and determined that HI 40.6–2016 produces test results that reflect the energy efficiency, energy use, or estimated operating costs of a dedicated-purpose pool pump during a representative average use cycle of DPPPs.

Additionally, HI has recently published another updated version of HI 40.6, ''Methods for Rotodynamic Pump Efficiency Testing'' (''HI 40.6–2021''). This version primarily updates the HI standard reference for nomenclature and definitions[7] and includes a new appendix for the testing of circulator pumps. In response to a request for information on commercial and industrial pumps,[8] stakeholders generally supported DOE's incorporation by reference of HI 40.6–2021 for that test procedure (Docket No. EERE–2020–BT–TP–0032: Grundfos Americas Corporation, No. 7, p. 2; Northwest Energy Efficiency Alliance, No. 8, p. 6; HI, No. 6, p. 1), with HI stating that it would not impact measured values, burden, or representativeness. (Docket No. EERE–2020–BT–TP–0032: HI, No. 6 at p. 3) DOE has reviewed relevant sections of HI 40.6–2021 and has determined that updates to the latest version of HI 40.6 will neither affect testing nor result in different test outcomes for DPPPs.

Issue 5: DOE requests comments on the updated standard HI 40.6–2021 and on whether DOE should incorporate HI 40.6–2021 by reference as the DOE test procedure for DPPPs. Specifically, DOE requests information on whether the updates in HI 40.6–2021 (and HI 40.6–2016) impact the measured values for DPPPs, and if so, to what extent. DOE also requests information on the impact of the updates in HI 40.6–2021 (and HI 40.6–2016) to the test burden and the representativeness of the test results for DPPPs.

b. NSF/ANSI Standard 50

DOE's test procedure for DPPPs references specific sections of NSF International (''NSF'')/American National Standards Institute (''ANSI'') Standard 50–2015 ''Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities'' (''NSF/ANSI 50–2015''). The DOE test procedure for DPPPs references Annex C, ''Normative test methods for the evaluation of centrifugal pumps,'' Section C.3, ''Self-priming capability,'' of NSF/ANSI 50–2015. These provisions pertain to the classifications and testing of self-priming and non-self-priming pool filter pumps. Section F of appendix B to subpart Y of part 431.

Since publication of the August 2017 Final Rule, NSF updated NSF/ANSI 50–2015 with the publication of NSF/ANSI/CAN Standard 50–2019 ''Equipment And Chemicals For Swimming Pools, Spas, Hot Tubs, And Other Recreational Water Facilities'' (''NSF/ANSI/CAN 50–2019''). This update changed section numbering and references but does not affect the test methods related to self-priming and non-self-priming pool filter pumps.

Issue 6: DOE requests comments on the updated standard NSF/ANSI/CAN 50–2019 and on whether DOE should

[5] A pre-publication version of the test procedure final rule was made available December 22, 2016. *www.energy.gov/sites/default/files/2016/12/f34/DPPP_TP_Final_Rule.pdf.*

[6] DOE's test procedure for determining pump energy efficiency was established in a final rule published on January 25, 2016 and excluded DPPPs from the definition of end suction close-coupled and end suction frame mounted pumps. 81 FR 4086, 4099 (''January 2016 Final Rule'').

[7] ANSI/HI 14.1–14.2 ''Rotodynamic Pumps for Nomenclature and Definitions'' (''ANSI/HI 14.1–14.2'').

[8] 85 FR 60734 (September 28, 2020).

reference NSF/ANSI/CAN 50–2019 sections N3–3 (which is the same as section C3 of NSF/ANSI 50–2015) as the DOE test procedure for determining the self-priming capabilities of DPPPs. DOE also requests information on the impact of the updates in NSF/ANSI/CAN 50–2019 to the test burden and the representativeness of the test results.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified in the **DATES** section, comments and information on matters addressed in this RFI.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Following this instruction, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. Faxes will not be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on January 12, 2022, by Kelly J. Speakes-Backman, Principal Deputy 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 January 12, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2022–BT–STD–0001]

Energy Conservation Program: Energy Conservation Standards for Dedicated-Purpose Pool Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is initiating an effort to determine whether to amend the current energy conservation standards for dedicated-purpose pool pumps

(''DPPPs''). Under the Energy Policy and Conservation Act, as amended, DOE must review these standards at least once every six years and publish either a notice of proposed rulemaking (''NOPR'') to propose new standards for DPPPs or a notification of determination that the existing standards do not need to be amended. This request for information (''RFI'') solicits information from the public to help DOE determine whether amended standards for DPPPs would result in significant energy savings and whether such standards would be technologically feasible and economically justified. DOE also welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised), as well as the submission of data and other relevant information.

DATES: Written comments and information are requested and will be accepted on or before February 23, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2022–BT–STD–0001, by any of the following methods:

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

2. *Email:* to *DPPP2022STD0001@ee.doe.gov.* Include docket number EERE–2022–BT–STD–0001 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing corona virus (''COVID–19'') pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, 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.

The docket web page can be found at *www.regulations.gov/docket/EERE-2022-BT-STD-0001.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588; Email: *amelia.whiting@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Introduction

A. Authority and Background

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). Title III, Part C[2] of EPCA (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. ''Pumps'' are listed as a type of industrial equipment covered by EPCA, although EPCA does not define the term ''pump.'' (42 U.S.C. 6311(1)(A)) DOE defines ''pump'' as equipment designed to move liquids (which may include entrained gases, free solids, and totally dissolved solids) by physical or mechanical action and includes a bare pump and, if included by the manufacturer at the time of sale, mechanical equipment, driver, and controls. 10 CFR 431.462. Dedicated-purpose pool pumps, which are the subject of this RFI, meet this definition of a pump and are covered under the pump equipment type.

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 include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and 42 U.S.C 6316(b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (42 U.S.C. 6316(a) (applying the preemption waiver provisions of 42 U.S.C. 6297))

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of

[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 C was redesignated Part A–1.

covered equipment, including those at issue here, and publish either a notification of determination that the standards do not need to be amended, or a NOPR that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)) If DOE determines not to amend a standard based on the statutory criteria, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(2))

In proposing new standards, DOE must evaluate that proposal against the criteria of 42 U.S.C. 6295(o), as described in the following section, and follow the rulemaking procedures set out in 42 U.S.C. 6295(p). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(B)) If DOE decides to amend the standard based on the statutory criteria, DOE must publish a final rule not later than two years after energy conservation standards are proposed. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(3)(A))

On January 18, 2017, DOE published a direct final rule (''January 2017 Direct Final Rule'') [3] to codify energy conservation standards for DPPPs manufactured or imported to the United States. 82 FR 5650. The energy conservation standards are consistent with the recommendations of the Appliance Standards Rulemaking Federal Advisory Committee (''ASRAC'') negotiated rulemaking working group for dedicated-purpose pool pumps (82 FR 5650, 5658). (Docket No. EERE–2015–BT–STD–0008, Nos. 51 and 82) The current energy conservation standards are located in title 10 of the Code of Federal Regulations (''CFR'') part 431, section 465(f)–(h). DOE established performance-based standards, expressed in terms of weighted energy factor (''WEF''), for certain DPPP classes. 10 CFR 431.465(f). For certain classes of DPPPs, including those classes subject to the performance standards, DOE established a design requirement. 10 CFR 431.465(g) and (h). Compliance with the standards established for DPPPs is required on and after July 19, 2021. The currently applicable DOE test procedures for DPPPs appear at 10 CFR part 431, subpart Y, appendices B and C (''Appendices B and C'').

DOE is publishing this RFI to collect data and information to inform this rulemaking consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy or is not technologically feasible or economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3))

To adopt any new or amended standards for a covered product, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6295(o)(3)(B))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[4] For example, the United States has now rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing GHG emissions in order to limit the rise in mean global temperature. As such, energy savings that reduce GHG emission have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and FFC effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards.

Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the affected products;

(2) The savings in operating costs throughout the estimated average life of the product compared to any increases in the initial cost, or maintenance expenses likely to result from the standard;

(3) The total projected amount of energy and water (if applicable) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the equipment likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary considers relevant.

(42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

[3] On May 26, 2017, DOE published a confirmation of the effective date and compliance date for the direct final rule, confirming adoption of the energy conservation standards established in the direct final rule. 82 FR 24218.

[4] The numeric threshold for determining the significance of energy savings established in a final rule published on February 14, 2020 (85 FR 8626, 8670), was subsequently eliminated in a final rule published on December 13, 2021 (86 FR 70892, 70906).

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy and Water Use Analysis.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic Impact on Manufacturers and Consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Consumer Subgroup Analysis.
2. Lifetime Operating Cost Savings Compared to Increased Cost for the Equipment	• Shipments Analysis. • Markups for Equipment Price Determination. • Energy and Water Use Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total Projected Energy Savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on Utility or Performance	• Screening Analysis. • Engineering Analysis.
5. Impact of Any Lessening of Competition	• Manufacturer Impact Analysis.
6. Need for National Energy and Water Conservation	• Shipments Analysis. • National Impact Analysis.
7. Other Factors the Secretary Considers Relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits. • Regulatory Impact Analysis.

As detailed throughout this RFI, DOE is publishing this document seeking input and data from interested parties to aid in the development of the technical analyses on which DOE will ultimately rely to determine whether (and if so, how) to amend the standards for DPPPs.

C. Deviation From Appendix A

In accordance with Section 3(a) of 10 CFR part 430, subpart C, appendix A, DOE notes that it is deviating from that appendix's provision requiring a 75 day comment period for all pre-NOPR standards documents. 10 CFR part 430, subpart C, appendix A, section 6(d)(2). DOE is opting to deviate from this step because DOE believes that 30 days is a sufficient time to respond to this initial rulemaking document given stakeholder engagement and participation in prior rulemaking activities regarding dedicated-purpose pool pumps.

II. Request for Information and Comments

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended standards for DPPPs.

A. Equipment Covered by This Process

This RFI covers those products that meet the definitions of DPPPs, as codified at 10 CFR 431.462. The definitions for DPPPs were established by a test procedure final rule published on August 7, 2017. 82 FR 36858.

Issue 1: DOE requests comment on whether the definitions for DPPPs require any revisions—and if so, how those definitions should be revised. DOE also requests feedback on whether the sub-category definitions currently in place are appropriate or whether further modifications are needed. If these sub-category definitions need modifying, DOE seeks specific input on how to define these terms and why such modifications are needed.

Issue 2: DOE requests comment on whether additional equipment definitions are necessary to close any potential gaps in coverage between equipment varieties. DOE also seeks input on whether such equipment currently exist in the market or whether they are being planned for introduction.

B. Market and Technology Assessment

The market and technology assessment that DOE routinely conducts when analyzing the impacts of a potential new or amended energy conservation standard provides information about the DPPP industry that will be used in DOE's analysis throughout the rulemaking process. DOE uses qualitative and quantitative information to characterize the structure of the industry and market. DOE identifies manufacturers, estimates market shares and trends, addresses regulatory and non-regulatory initiatives intended to improve energy efficiency or reduce energy consumption, and explores the potential for efficiency improvements in the design and manufacturing of DPPPs. DOE also reviews equipment literature, industry publications, and company websites. Additionally, DOE considers conducting interviews with manufacturers to improve its assessment of the market and available technologies for DPPPs.

1. Equipment Classes

When evaluating and establishing energy conservation standards, DOE may divide covered equipment into equipment classes by the type of energy used, or by capacity or other performance-related features that justify a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(1)) In determining whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. (*Id.*)

For DPPPs, the current energy conservation standards specified in 10 CFR 431.465 are based on the following performance-related features: Strainer or filtration accessory, self-priming ability, pump capacity, and rotational speed. Table II.1 lists the seven current equipment classes for DPPPs.

TABLE II.1—CURRENT DEDICATED-PURPOSE POOL PUMPS EQUIPMENT CLASSES

Equipment class
1. Standard-Size Self-Priming Pool Filter Pump (0.711 hp ≤ hhp < 2.5 hp).
2. Small-Size Self-Priming Pool Filter Pump (hhp < 0.711 hp).
3. Non-Self-Priming Pool Filter Pump (hhp < 2.5 hp).
4. Pressure Cleaner Booster Pump.
5. Waterfall Pump.
6. Integral Cartridge Filter Pool Pump.
7. Integral Sand Filter Pool Pump.

Issue 3: DOE requests feedback on the current DPPP equipment classes and whether changes to these individual equipment classes and their descriptions should be made or if novel equipment can be classified as multiple different units.

The DPPPs ASRAC Working Group limited its scope to self-priming and non-self-priming pool filter pumps with hydraulic output power less than 2.5 horsepower, as those pumps are typically installed in residential applications (Docket No. EERE–2015–BT–0008, No. 82, pp. 1–2). Very large pool filter pumps, with hydraulic output of 2.5 horsepower or more, are more commonly installed in commercial applications, where the head and flow characteristics are significantly different from residential installations. The ASRAC DPPP Working Group also noted a lack of performance data for these very large pool filter pumps, which prevented the group from negotiating standards for these pumps. (Docket No. EERE–2015–BT–STD–0008, No. 53 at pp. 197–198; Docket No. EERE–2015–BT–STD–0008, No. 79 at pp. 33–34, pp. 41–42, pp. 44–48, pp. 50–53).

Following adoption of the test procedure and energy conservation standards for DPPPs, manufacturers identified several models of DPPPs that are designed and marketed for commercial applications, but do in fact have hydraulic output power less than 2.5 horsepower. The Office of the General Counsel has issued an enforcement policy statement regarding these DPPPs.[5] The policy states that DOE will not enforce the testing, labeling, certification, and standards compliance requirements for DPPPs meeting all of the following three criteria:

(1) The orifice on the pump body that accepts suction side plumbing connections has an inner diameter of greater than 2.85 inches; and

(2) The pump has a measured performance of ≥200 gallons per minute (gpm) at 50 feet of head as determined in accordance with appendices B or C (as applicable) to subpart Y of part 431, section I.A.1 (When determining overall efficiency, best efficiency point, or other applicable pump energy performance information, section 40.6.5.5.1, ''Test procedure''; section 40.6.6.2, ''Pump efficiency''; and section 40.6.6.3, ''Performance curve'' must be used, as applicable); and

(3) The pump is marketed exclusively for commercial applications.

As explained in the enforcement policy statement, these pumps were not considered during the ASRAC negotiations, but were not explicitly exempted in the regulatory text.

Issue 4: DOE seeks information regarding any other new equipment classes it should consider for inclusion in its analysis. Specifically, DOE requests information on performance-related features that provide unique consumer utility and data detailing the corresponding impacts on energy use that would justify separate equipment classes (*i.e.,* explanation for why the presence of these performance-related features would increase energy consumption).

2. Technology Assessment

In analyzing the feasibility of potential new or amended energy conservation standards, DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to meet and/or exceed a given set of energy conservation standards under consideration. In consultation with interested parties, DOE intends to develop a list of technologies to consider in its analysis. That analysis will likely include a number of the technology options DOE previously considered during its most recent rulemaking for DPPPs. A complete list of those prior options appears in Table II.2. *See also* 82 FR 5650, 5676–5679.

TABLE II.2—TECHNOLOGY OPTIONS CONSIDERED IN THE DEVELOPMENT OF THE JANUARY 2017 DIRECT FINAL RULE

Improved motor efficiency.
Ability to Operate at Reduced Speed.
Improved Hydraulic Design.
Pool Pump Timer.

Issue 5: DOE seeks information on the technology options listed in Table II.2 regarding their applicability to the current market and how these technologies may impact the efficiency of DPPPs as measured according to the DOE test procedure. DOE also seeks information on how these technologies may have changed since their prior consideration during the January 2017 Direct Final Rule analysis. Specifically, DOE seeks information on the range of efficiencies or performance characteristics that are currently available for each technology option.

Issue 6: DOE seeks comment on other technology options that it should consider for inclusion in its analysis and details regarding the extent to which these technologies may impact equipment features or consumer utility. DOE also seeks input regarding the cost-effectiveness of implementing these options.

Issue 7: DOE seeks comment on other technology options that it should consider for inclusion in its analysis and if these technologies may impact product features or consumer utility.

C. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies that improve equipment efficiency to determine which technologies will be eliminated from further consideration and which will be passed to the engineering analysis for further consideration.

DOE determines whether to eliminate certain technology options from further consideration based on the following criteria:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial equipment or in working

[5] *www.energy.gov/gc/articles/direct-purpose-pool-pumps-enforcement-policy.*

prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production of a technology in commercial equipment and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on equipment utility or equipment availability.* If a technology is determined to have significant adverse impact on the utility of the equipment to significant subgroups of consumers, or result in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology will have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-Pathway Proprietary Technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns. 10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

Technology options identified in the technology assessment are evaluated against these criteria using DOE analyses and inputs from interested parties (*e.g.,* manufacturers, trade organizations, and energy efficiency advocates). Technologies that pass through the screening analysis are referred to as ''design options'' in the engineering analysis. Technology options that fail to meet one or more of the five criteria are eliminated from consideration.

None of the technology options listed in Table II.2 were screened out in the January 2017 Direct Final Rule.

Issue 8: DOE requests feedback on what impact, if any, the five screening criteria described in this section would have on each of the technology options listed in Table II.2 and Table II.3 of this RFI with respect to DPPPs. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in DPPPs.

D. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of DPPPs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency equipment, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each equipment class, DOE estimates the baseline cost, as well as the incremental cost for the product/equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the life-cycle cost (''LCC'') and payback period (''PBP'') analyses and the NIA).

1. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) Relying on observed efficiency levels in the market (*i.e.,* the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.,* the design-option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing products (in other words, based on the range of efficiencies and efficiency level ''clusters'' that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual products on the market) may be extended using the design option approach to interpolate to define ''gap fill'' levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the max-tech level (particularly in cases where the max-tech level exceeds the maximum efficiency level currently available on the market).

For each established equipment class, DOE selects a baseline model as a reference point against which any changes resulting from new or amended energy conservation standards can be measured. The baseline model in each equipment class represents the characteristics of common or typical equipment in that class. Typically, a baseline model is one that meets the current minimum energy conservation standards and provides basic consumer utility. Consistent with this analytical approach, DOE tentatively plans to consider the current minimum energy conservation standards (which went into effect July 19, 2021) to establish baseline efficiency levels for each equipment class group. The current standards for each equipment class are found at 10 CFR 431.465(f)–(h).

Issue 9: DOE requests feedback (including data) on whether the current established energy conservation standards for DPPPs appropriate baseline efficiency levels for DOE are to apply to each equipment class group in evaluating whether to amend the current energy conservation standards for these equipment classes.

Issue 10: DOE requests feedback on the appropriate baseline efficiency levels for any equipment classes that are not currently in place, such as pool filter pumps with hydraulic horsepower greater than or equal to 2.5 horsepower, or DPPPs subject to the enforcement policy.

As part of DOE's analysis, the maximum available efficiency level is the most efficient unit currently available on the market. For the January 2017 Direct Final Rule, DOE did not directly analyze every available DPPP capacity. Rather, DOE selected and analyzed certain representative capacities from each equipment class and based its overall analysis for each equipment class on those representative units. The representative units from each equipment class were determined based on horsepower ratings, in addition to corresponding shipment volumes, examination of manufacturers' catalog data, and soliciting feedback from interested parties.

DOE defines a max-tech efficiency level to represent the theoretical maximum possible efficiency if all available design options are incorporated in a model. In applying these design options, DOE would only include those that are compatible with each other that when combined, would represent the theoretical maximum possible efficiency. In many cases, the max-tech efficiency level is not commercially available because it is not economically feasible. In the January 2017 Direct Final Rule, DOE determined max-tech efficiency levels using energy

modeling as well as input from interested parties during negotiation. These energy models were based on using various technology options (as discussed in section II.B.2 of this RFI) applicable to specific equipment classes. While all these equipment configurations had not likely been tested as prototypes, all the individual design options had been incorporated in available equipment, and therefore a compatible combination of the design options used for max-tech is theoretically possible. The max-tech efficiency levels analyzed in the January 2017 Direct Final Rule are included in Table II.3.

TABLE II.3—MAX-TECH EFFICIENCY LEVELS ANALYZED IN THE JANUARY 2017 DIRECT FINAL RULE

Equipment class	Pump variety	Motor nameplate efficiency at high speed (%)	Horsepower rating (hhp)	Weighted energy factor, WEF (kgal/kWh)
1	Standard-Size Self-Priming Pool Filter Pump	82	1.88	6.97
		81	0.95	8.59
2	Small-Size Self-Priming Pool Filter Pump	81	0.44	11.71
3	Standard-Size Non-Self-Priming Pool Filter Pump	81	0.52	11.96
4	Extra-Small Non-Self-Priming Pool Filter Pump	72	0.09	5.14
5	Pressure Cleaner Booster Pump	81	0.28	0.56
6	Waterfall Pump	78	0.40	9.85

Issue 11: DOE seeks input on whether it is appropriate to use the same representative units for the purpose of the engineering analysis.

Issue 12: DOE seeks input on whether the max-tech efficiency levels presented in Table II.3 are appropriate and technologically feasible for potential consideration as possible energy conservation standards—and if not, why not. DOE also requests feedback on whether the max-tech efficiencies presented in Table II.3 of this RFI are representative of other pump capacities not directly analyzed in the January 2017 Direct Final Rule. If the range of possible efficiencies is different for the other pump capacities not analyzes, what alternative approaches should DOE consider using for those pump capacities and why?

Issue 13: DOE seeks feedback on what design options would be incorporated for each equipment class at a max-tech efficiency level, and the efficiencies associated with those levels.

Issue 14: DOE requests feedback on the appropriate max-tech efficiency levels for any equipment classes that are not currently in place, such as pool filter pumps with hydraulic horsepower greater than or equal to 2.5 horsepower, or DPPPs subject to the enforcement policy.

2. Cost Analysis

The cost analysis portion of the engineering analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including availability and reliability of public information, characteristics of the regulated product, and the availability and timeliness of purchasing the equipment on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles a commercially available product, component-by-component, to develop a detailed bill of materials for the product.
- *Catalog teardowns:* In lieu of physically deconstructing a product, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the product.
- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (*e.g.,* large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

The bill of materials provides the basis for the manufacturer production cost (''MPC'') estimates. DOE then applies a manufacturer markup to convert the MPC to manufacturer selling price (''MSP''). The manufacturer markup accounts for costs such as overhead and profit. The resulting bill of materials provides the basis for the manufacturer production cost (''MPC'') estimates.

As described at the beginning of this section, the main outputs of the engineering analysis are cost-efficiency relationships that describe the estimated increases in manufacturer production cost associated with higher-efficiency equipment for the analyzed equipment classes. For the January 2017 Direct Final Rule, DOE developed the cost-efficiency relationships by estimating the efficiency improvements and costs associated with incorporating specific design options into the assumed baseline model for each analyzed equipment class.

Issue 15: DOE requests feedback on whether manufacturers would incorporate the technology options listed in Table II.2 of this RFI to increase energy efficiency of DPPPs beyond the baseline, and if so, how. This includes information on the order in which manufacturers would incorporate the different technologies to incrementally improve the efficiencies of equipment. DOE also requests feedback on whether the increased energy efficiency of DPPPs would lead to other design changes that would not occur otherwise, and if so, what those changes would be. DOE is also interested in information regarding any potential impact of adopting a given design option on a manufacturer's ability to incorporate additional functions or attributes in response to consumer demand.

Issue 16: DOE also seeks input on the increase in MPC associated with incorporating each design option. Specifically, DOE is interested in whether and how the costs estimated for design options in the January 2017 Direct Final Rule have changed since the time of that analysis. DOE also requests information on the investments needed to incorporate specific design options, including, but not limited to, costs related to new or modified tooling (if any), materials, engineering and development efforts to implement each design option, and manufacturing/production impacts.

Issue 17: DOE requests comment on whether certain design options may not

be applicable to (or incompatible with) specific equipment classes.

To account for manufacturers' non-production costs and profit margin, DOE applies a non-production cost multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. For the 2017 Direct Final Rule, DOE used a manufacturer markup of 1.46 for self-priming pool filter pumps and waterfall pumps, 1.35 for non-self-priming pool filter pumps and pressure cleaner booster pool pumps, and 1.27 for integral cartridge-filter pool pumps and integral sand-filter pool pumps. DOE developed these estimated markups based on corporate reports and conversations with manufacturers and experts. See chapter 6 of the January 2017 Direct Final Rule TSD for further detail.

Issue 18: DOE requests feedback on whether the manufacturer markups used in the January 2017 Direct Final Rule are still appropriate for DOE to use when evaluating whether to amend its current standards. If the markups require revision, what specific revisions are needed for each? Are there additional markups that DOE should also consider—if so, which ones and why?

E. Markup Analysis

DOE derives customer prices based on manufacturer markups, retailer markups, distributor markups, contractor markups (where appropriate), and sales taxes. In deriving these markups, DOE determines the major distribution channels for product sales, the markup associated with each party in each distribution channel, and the existence and magnitude of differences between markups for baseline products (''baseline markups'') and higher-efficiency products (''incremental markups''). The identified distribution channels (*i.e.,* how the products are distributed from the manufacturer to the consumer), and estimated relative sales volumes through each channel are used in generating end-user price inputs for the LCC analysis and national impact analysis (''NIA''). In the January 2017 Direct Final Rule, DOE accounted for three distribution channels for dedicated-purpose pool pumps: Two for replacements of pool pumps for an existing swimming pool and one for installations of a pool pump in a new swimming pool. DOE also estimated the fraction of pool pumps distributed through each channel:

Existing Pool:

Manufacturer → Wholesaler → Pool Service Contractor → Consumer (75%)

Manufacturer → Pool Product Retailer → Consumer (20%)

New Pool:

Manufacturer → Pool Builder → Consumer (5%)

82 FR 5650, 5698.

In addition, in DOE's analysis in the January 2017 Direct Final Rule, in some cases only the motor component is replaced rather than the entire pool pump. Therefore, DOE also considered distribution channels to account for how motors are distributed in the motor replacement market:

Motor Manufacturer → Wholesaler → Contractor → Consumer (25%)

Motor Manufacturer → Wholesaler → Retailer → Consumer via internet or direct sale at local stores (25%)

Pump Manufacturer → Pump Product Retailer → Consumer (50%)

82 FR 5650, 5696.

Issue 19: DOE requests information on the existence of any distribution channels other than the channels that were identified in the January 2017 Direct Final Rule and as described in section E. DOE also requests data on the fraction of sales that go through these channels and any other identified channels.

F. Energy Use Analysis

As part of the rulemaking process, DOE conducts an energy use analysis to identify how equipment is used by consumers, and thereby determine the energy savings potential of energy efficiency improvements. The energy use analysis is meant to represent the energy consumption of a given product or equipment when used in the field.

In the January 2017 Direct Final Rule, DOE determined the annual energy consumption of DPPPs by multiplying the average daily unit energy consumption (''UEC'') by the annual days of operation. For single-speed pool pumps, the daily UEC is the pool pump power multiplied by the daily operating hours. For two-speed and variable-speed pool pumps, the daily UEC is the sum of low-speed mode power, multiplied by daily low-speed operating hours, and the high-speed mode power, multiplied by the daily high-speed operating hours. 82 FR 5650, 5697. DOE's determination of power inputs, operating hours, and annual days of operation are described in detail in the January 2017 Direct Final Rule. 82 FR 5650, 5697–5700.

Issue 20: DOE requests information on whether any of the data or assumptions used to estimate average annual energy use for DPPPs need to be updated, and if so why and how.

Issue 21: DOE requests comment on the energy use patterns of pool filter pumps with hydraulic horsepower greater than or equal to 2.5 horsepower, or DPPPs subject to the enforcement policy, including (1) power inputs, (2) operating hours, and (3) annual days of operation.

G. Life-Cycle Cost and Payback Analysis

DOE conducts the LCC and PBP analysis to evaluate the economic effects of potential energy conservation standards for DPPPs on individual customers. For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimated baseline level. The LCC is the total customer expense over the life of the equipment, consisting of purchase, installation, and operating costs (expenses for energy use, maintenance, and repair). Inputs to the calculation of total installed cost include the cost of the equipment—which includes MSPs, distribution channel markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, equipment lifetimes, discount rates, and the year that compliance with new and amended standards is required.

1. Installation, Maintenance, and Repair Costs

In the January 2017 Direct Final Rule, DOE only accounted for the difference in installation cost by efficiency level. Specifically, for two-speed pumps, DOE included the cost of a timer control and its installation where applicable. For two-speed and variable-speed pumps, DOE included supplemental installation labor costs. 82 FR 5650, 5701. DOE also assumed that for maintenance cost, there is no change with efficiency level, so DOE did not include those costs in the model. 82 FR 5650, 5702. Finally, for repair costs, DOE accounted for the cost of a motor replacement. DOE estimated that such replacement occurs at the halfway point in a pump's lifetime, but only for those dedicated-purpose pool pumps whose lifetime exceeds the average lifetime for the relevant equipment class. The cost of the motor was determined through the engineering and markups analysis. DOE used 2015 RS Means to estimate labor costs for pump motor replacement. *Id.*

Issue 22: DOE requests feedback and data on its assumptions regarding installation and maintenance costs described in section G as well as for any technology options listed in Table II.2 of this RFI.

Issue 23: To the extent that these costs differ by efficiency level, DOE seeks

supporting data and the reasons for those differences.

Issue 24: DOE requests information and data on the frequency of repair and repair costs by equipment class for motor replacement or for any of the technology options listed in Table II.2 of this RFI.

2. Equipment Lifetime

In the January 2017 Direct Final Rule, DOE developed a survival function, which provides a distribution of lifetime ranging from a minimum of 2 or 3 years based on warranty covered period, to a maximum of 15 years, with a mean value of 7 years for self-priming and waterfall pumps, 5 years for non-self-priming and pressure cleaner booster pumps, and 4 years for integral pumps. These values are applicable to pumps in residential applications. For commercial applications, DOE scaled the lifetime to acknowledge the higher operating hours compared to residential applications, resulting in a reduced average lifetime. 82 FR 5650, 5702.

Issue 25: DOE requests comment on whether the lifetime values continue to be appropriate for pool pumps currently subject to standards, and if not, how they should be changed.

Issue 26: DOE requests information on the lifetime of pool filter pumps with hydraulic horsepower greater than or equal to 2.5 horsepower and DPPPs subject to the enforcement policy.

H. Shipments

DOE develops shipments projections of DPPPs to calculate the national impacts of potential amended energy conservation standards on energy consumption, net present value (''NPV''), and future manufacturer cash flows. In the January 2017 Final Rule, DOE estimated shipments in 2015 using data collected from manufacturer interview. DOE projected shipments using growth rates obtained from manufacturer interviews, a consulting report, and several macroeconomic indicators. 82 FR 5650, 5703.

Issue 27: DOE requests 2020 annual sales data (*i.e.,* number of shipments) for dedicated-purpose pool pumps and corresponding equipment classes (including those for pool filter pumps with hydraulic horsepower greater than or equal to 2.5 horsepower and DPPPs subject to the enforcement policy). For each class, DOE also requests the fraction of sales by class that are ENERGY STAR-qualified, as well as the fraction of sales by class that are single-speed, two-speed, or multi- and variable-speed.

Issue 28: If available, DOE requests the same information for the previous five years (2015–2019).

I. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (''MIA'') is to estimate the financial impact of amended energy conservation standards on manufacturers of DPPPs, and to evaluate the potential impact of such standards on direct employment and manufacturing capacity. The MIA includes both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (''GRIM''), an industry cash-flow model adapted for each equipment in this analysis, with the key output of industry net present value (''INPV''). The qualitative part of the MIA addresses the potential impacts of energy conservation standards on manufacturing capacity and industry competition, as well as factors such as equipment characteristics, impacts on particular subgroups of firms, and important market and equipment trends.

As part of the MIA, DOE intends to analyze impacts of amended energy conservation standards on subgroups of manufacturers of covered equipment, including small business manufacturers. DOE uses the Small Business Administration's (''SBA'') small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the applicable North American Industry Classification System (''NAICS'') code.[6] Manufacturing of DPPPs is classified under NAICS code 333914, ''Measuring, Dispensing, and Other Pumping Equipment Manufacturing,'' and the SBA sets a threshold of 750 employees or less for a domestic entity to be considered as a small business. This employee threshold includes all employees in a business' parent company and any other subsidiaries.

One aspect of assessing manufacturer burden involves examining the cumulative impact of multiple DOE standards and the equipment-specific regulatory actions of other Federal agencies that affect the manufacturers of a covered equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon equipment lines or markets with lower expected future returns than competing equipment. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

Issue 29: To the extent feasible, DOE seeks the names and contact information of any domestic or foreign-based manufacturers that distribute DPPPs in the United States.

Issue 30: DOE identified small businesses as a subgroup of manufacturers that could be disproportionally impacted by amended energy conservation standards. DOE requests the names and contact information of small business manufacturers, as defined by the SBA's size threshold, of DPPPs that manufacture equipment in the United States. In addition, DOE requests comment on any other manufacturer subgroups that could be disproportionally impacted by amended energy conservation standards. DOE requests feedback on any potential approaches that could be considered to address impacts on manufacturers, including small businesses.

Issue 31: DOE requests information regarding the cumulative regulatory burden impacts on manufacturers of DPPPs associated with (1) other DOE standards applying to different equipment that these manufacturers may also make and (2) equipment-specific regulatory actions of other Federal agencies. DOE also requests comment on its methodology for computing cumulative regulatory burden and whether there are any flexibilities it can consider that would reduce this burden while remaining consistent with the requirements of EPCA.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified in the **DATES** section of this document, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended energy conservations standards for DPPPs. After the close of the comment period, DOE will review the public comments received and may begin collecting data and conducting the analyses discussed in this document.

[6] Available online at *sba.gov/document/support--table-size-standards.*

Submitting comments via *www.regulations.gov.* The *www.regulations.gov* web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies Office staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

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Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process or would like to request a public meeting should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on January 12, 2022, by Kelly J. Speakes-Backman, Principal Deputy 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 January 12, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–00849 Filed 1–21–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1185; Project Identifier AD–2021–00339–E]

RIN 2120–AA64

Airworthiness Directives; Honeywell International, Inc. (Type Certificate Previously Held by AlliedSignal, Inc. and Textron Lycoming) Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2002–03–01, which applies to all Honeywell International, Inc. (Honeywell) T53 model turboshaft engines. AD 2002–03–01 requires initial and repetitive special vibration tests of the engine, and if necessary replacement with a serviceable reduction gearbox assembly, or a serviceable engine before further flight. Since the FAA issued AD 2002–03–01, the FAA received reports that two additional Honeywell model turboshaft engines, not captured in AD 2002–03–01, are also subject to

tachometer drive spur gear failures due to vibration loads. This proposed AD would require initial and repetitive special vibration tests of the engine and, depending on the results, replacement of either the reduction gearbox assembly or the engine. 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 March 10, 2022.

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 Honeywell International, Inc., 111 South 34th Street, Phoenix, AZ 85034; phone: (800) 601–3099; fax: (602) 365 5577; website: *https://myaerospace.honeywell.com/wps/portal.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (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–2021–1185; 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: Jeffrey Chang, Aviation Safety Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712; phone: (562) 627–5263; fax: (562) 627–5210; email: *jeffrey.chang@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–2021–1185; Project Identifier AD–2021–00339–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 Jeffrey Chang, Aviation Safety Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712. 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 2002–03–01, Amendment 39–12642 (67 FR 6857, February 14, 2002) (AD 2002–03–01) for all Honeywell (formerly AlliedSignal, Inc. and Textron Lycoming) T5311A, T5311B, T5313B, T5317A, T5317B, and former military T53–L–11, T53–L–11A, T53–L–11B, T53–L–11C, T53–L–11D, T53–L–11A S/SA, T53–L–13B, T53–L–13B S/SA, T53–L–13B S/SB, and T53–L–703 model turboshaft engines. AD 2002–03–01 was prompted by reports of tachometer drive spur gear failure, resulting in potential engine overspeed, loss of power turbine speed (N2) instrument panel indication, and hard landings. AD 2002–03–01 requires initial and repetitive special vibration tests of the engine and, for engines that fail the special vibration tests, replacement of the gearbox assembly or engine before further flight. The agency issued AD 2002–03–01 to prevent excessive vibrations produced by the reduction gearbox assembly that could cause failure of the tachometer drive spur gear.

Actions Since AD 2002–03–01 Was Issued

Since the FAA issued AD 2002–03–01, the FAA received reports that Honeywell T5317A–1 and T5317BCV model turboshaft engines are subject to the same unsafe condition identified in AD 2002–03–01, tachometer drive spur gear failures due to vibration loads. These model turboshaft engines were not included in the applicability of AD 2002–03–01. The FAA and Honeywell determined that the Honeywell T5317A–1 engine model was inadvertently left out of the applicability of AD 2002–03–01 and the Honeywell T5317BCV engine model was introduced into production after the publication of AD 2002–03–01.

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 AlliedSignal Aerospace Service Bulletin (SB) T5311A/B–0100, dated January 20, 2000. This SB specifies procedures for performing a special vibration check on Honeywell T5311A and T5311B model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T5313B/17–0100, dated November 19, 1999. This SB specifies procedures for performing a special vibration check on Honeywell T5313B, T5317A, and T5317B model turboshaft engines.

The FAA reviewed Honeywell SB T53–0147, dated May 29, 2007. This SB specifies procedures for performing a special vibration check on Honeywell T5317A–1 model turboshaft engines.

The FAA reviewed Honeywell Maintenance Manual Temporary Revision (TR) No. 165, dated July 29, 2020. This TR specifies procedures for performing a special vibration check on Honeywell T5313B, T5317A, T5317A–1, T5317B, and T5317BCV model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T53–L–11–0100, Revision 2, dated January 20, 2000. This SB specifies procedures for performing a special vibration check on Honeywell T53–L–11, –11A, –11B, –11C, –11D, and –11A S/SA model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T53–L–13B–0100, Revision 2, dated May 11, 1999. This SB specifies procedures for performing a special vibration check on Honeywell T53–L–13B, –13B S/SA, and –13B S/SB model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T53–L–703–0100, Revision 2, dated May 11, 1999. This SB specifies procedures for performing a special vibration check on Honeywell T53–L–703 model turboshaft engines.

The Director of the Federal Register approved AlliedSignal Aerospace SB T5313B/17–0100, dated November 19, 1999; AlliedSignal Aerospace SB T53–L–13B–0100, Revision 2, dated May 11, 1999; AlliedSignal Aerospace SB T53–L–703–0100, Revision 2, dated May 11, 1999; AlliedSignal Aerospace SB T5311A/B–0100, dated January 20, 2000; and AlliedSignal Aerospace SB T53–L–11–0100, Revision 2, dated January 20, 2000, for incorporation by reference as of March 21, 2002 (67 FR 6857, February 14, 2002). 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**.

Other Related Service Information

The FAA reviewed AlliedSignal Aerospace SB T5311/T53–L–11–0103, dated January 20, 2000. This SB specifies procedures for replacing the reduction gearbox assembly on Honeywell T5311A and T5311B model turboshaft engines and Honeywell T53–L–11, –11A, –11B, –11C, –11D, and –11A S/SA model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T5313B/17–0103, dated November 19, 1999. This SB specifies procedures for replacing the reduction gearbox assembly on Honeywell T5313B, T5317A, and T5317B model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T53–L–13B–0103, Revision 4, dated November 2, 1999. This SB specifies procedures for replacing the reduction gearbox assembly on Honeywell T53–L–13B, –13B S/SA, and –13B S/SB model turboshaft engines.

The FAA reviewed AlliedSignal Aerospace SB T53–L–703–0103, Revision 4, dated November 2, 1999. This SB specifies procedures for replacing the reduction gearbox assembly on Honeywell T53–L–703 model turboshaft engines.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2002–03–01. This proposed AD would require initial and repetitive special vibration tests of the engine and, depending on the results, replacement of either the reduction gearbox assembly or the engine. This proposed AD would also expand the applicability to include Honeywell T5317A–1 and T5317BCV model turboshaft engines.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 150 engines installed on helicopters 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
Special vibration test of the engine	4 work-hours × $85 per hour = $340	$0	$340	$51,000

The FAA estimates the following costs to do any necessary replacement that would be required based on the results of the proposed special vibration test. The agency has no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the reduction gearbox assembly	40 work-hours × $85 per hour = $3,400	$48,000	$51,400
Replace the engine	24 work-hours × $85 per hour = $2,040	250,577	252,617

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 2002–03–01, Amendment 39–12642 (67 FR 6857, February 14, 2002); and

■ b. Adding the following new airworthiness directive:

Honeywell International Inc. (Type Certificate previously held by AlliedSignal, Inc. and Textron Lycoming): Docket No. FAA–2021–1185; Project Identifier AD–2021–00339–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 10, 2022.

(b) Affected ADs

This AD replaces AD 2002–03–01, Amendment 39–12642 (67 FR 6857, February 14, 2002).

(c) Applicability

This AD applies to Honeywell International, Inc. (Type Certificate previously held by AlliedSignal, Inc. and Textron Lycoming) T5311A, T5311B, T5313B, T5317A, T5317A–1, T5317B, T5317BCV, and former military T53–L–11, T53–L–11A, T53–L–11B, T53–L–11C, T53–L–11D, T53–L–11A S/SA, T53–L–13B, T53–L–13B S/SA, T53–L–13B S/SB, and T53–L–703 model turboshaft engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7600, Engine Controls.

(e) Unsafe Condition

This AD was prompted by reports of tachometer drive spur gear failure, resulting in potential engine overspeed, loss of power turbine speed (N2) instrument panel indication, and hard landings. The FAA is issuing this AD to prevent excessive vibrations produced by the reduction gearbox assembly that could cause failure of the tachometer drive spur gear. The unsafe condition, if not addressed, could result in failure of the engine, loss of thrust control, and damage to the aircraft.

(f) Compliance

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

(g) Required Actions

(1) Within 100 flight hours (FHs) after the effective date of this AD, perform an initial special vibration test of the engine using the service information, as applicable to the engine model, listed in Table 1 to paragraph (g)(1) of this AD.

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Table 1 to paragraph (g)(1) –Applicable Service Information

Engine Model	Service Information
Honeywell T5311A and T5311B	Accomplishment Instructions, paragraph 3.A. of AlliedSignal Aerospace Service Bulletin (SB) T5311A/B-0100, dated January 20, 2000
Honeywell T5313B, T5317A, and T5317B	Accomplishment Instructions, paragraph 3.A. AlliedSignal Aerospace SB T5313B/17-0100, dated November 19, 1999, or paragraph 11.F of Honeywell Maintenance Manual Temporary Revision (TR) No. 165, dated July 29, 2020
Honeywell T5317A-1	Accomplishment Instructions, paragraph 3.A. of Honeywell SB T53-0147, dated May 29, 2007, or paragraph 11.F of Honeywell Maintenance Manual TR No. 165, dated July 29, 2020
Honeywell T5317BCV	Paragraph 11.F of Honeywell Maintenance Manual TR No. 165, dated July 29, 2020
Honeywell T53-L-11, -11A, -11B, -11C, -11D, and -11A S/SA	Accomplishment Instructions, paragraph 3.A. of AlliedSignal Aerospace SB T53-L-11-0100, Revision 2, dated January 20, 2000
Honeywell T53-L-13B, -13B S/SA, and -13B S/SB	Accomplishment Instructions, paragraph 3.A. of AlliedSignal Aerospace SB T53-L-13B-0100, Revision 2, dated May 11, 1999
Honeywell T53-L-703	Accomplishment Instructions, paragraph 3.A. of AlliedSignal Aerospace SB T53-L-703-0100, Revision 2, dated May 11, 1999

BILLING CODE 4910–13–C

(2) Thereafter, within the following compliance times, perform repetitive special vibration tests of the engine:

(i) For engines that have tachometer drive spur gear part number (P/N) 1–070–062–04 installed, perform a repetitive special vibration test before exceeding 500 FHs since the last special vibration test.

(ii) For engines that have tachometer drive spur gear P/N 1–070–062–06 installed, perform a repetitive special vibration test before exceeding 1,000 FHs since the last special vibration test.

(3) If, during any special vibration test required by paragraph (g)(1) or (2) of this AD, an engine exceeds the 0.2 inches per second (IPS) limit for any peak RPM/frequency bands, perform one of the following:

(i) Before further flight, replace the reduction gearbox assembly with a reduction gearbox assembly eligible for installation; or

(ii) Before further flight, replace the engine with an engine eligible for installation.

(4) After replacing the reduction gearbox assembly or engine, as required by paragraph (3)(i) or (ii) of this AD, before further flight, perform an initial special vibration test of the engine using the service information, as applicable to the engine model, listed in Table 1 to paragraph (g)(1) of this AD.

(5) If, during the special vibration test required by paragraph (g)(4) of this AD, an engine exceeds the 0.2 IPS limit for any peak within the RPM/frequency bands, before further flight, replace the reduction gearbox assembly or the engine.

(h) Definitions

(1) For the purpose of this AD, a ''reduction gearbox assembly eligible for installation'' is a new, zero hour reduction gearbox assembly or an overhauled reduction gearbox assembly with tachometer drive spur gear P/N 1–070–062–04 or P/N 1–070–062–06 that does not exceed the 0.2 IPS limit for any peak within the RPM/frequency bands during the administered special vibration test.

(2) For the purpose of this AD, an ''engine eligible for installation'' is an engine with tachometer drive spur gear P/N 1–070–062–04 or P/N 1–070–062–06 that does not exceed the 0.2 IPS limit for any peak within the RPM/frequency bands during the administered special vibration test.

(i) No Reporting Requirement

The reporting requirements in the Accomplishment Instructions, paragraph 3.A. or paragraph 11.F, of the service information, as applicable to the engine model, listed in Table 1 to paragraph (g)(1) of this AD, are not required by this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or 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 (k)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) AMOCs approved for AD 2002–03–01 (67 FR 6857, February 14, 2002) are approved as AMOCs for the corresponding provisions of this AD.

(k) Related Information

(1) For more information about this AD, contact Jeffrey Chang, Aviation Safety Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712; phone: (562) 627–5263; fax: (562) 627–5210; email: *jeffrey.chang@faa.gov.*

(2) For service information identified in this AD, contact Honeywell International, Inc., 111 South 34th Street, Phoenix, AZ 85034; phone: (800) 601–3099; fax: (602) 365 5577; website: *https://myaerospace.honeywell.com/wps/portal.* 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 (817) 222–5110.

Issued on January 18, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–01238 Filed 1–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 170

RIN–0955–AA04

Request for Information: Electronic Prior Authorization Standards, Implementation Specifications, and Certification Criteria

AGENCY: Office of the National Coordinator for Health IT, Health and Human Services (HHS).

ACTION: Request for information

SUMMARY: This request for information seeks input from the public regarding electronic prior authorization standards, implementation specifications, and certification criteria that could be adopted within the ONC Health IT Certification Program. Responses to this Request for Information will be used to inform potential future rulemaking.

DATES: To be assured consideration, written or electronic comments must be received at one of the addresses provided below, no later than 5 p.m. on March 25, 2022.

ADDRESSES: You may submit comments, identified by RIN 0955–AA04, by any of the following methods (please do not submit duplicate comments). Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Federal eRulemaking Portal: Follow the instructions for submitting comments. Attachments should be in Microsoft Word, Microsoft Excel, or Adobe PDF; however, we prefer Microsoft Word. *http://www.regulations.gov.*

Regular, Express, or Overnight Mail: Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Attention: Request for Information: Electronic Prior Authorization Standards, Implementation Specifications, and Certification Criteria, Mary E. Switzer Building, Mail Stop: 7033A, 330 C Street SW, Washington, DC 20201. Please submit one original and two copies.

Hand Delivery or Courier: Office of the National Coordinator for Health Information Technology, Attention: Request for Information: Electronic Prior Authorization Standards, Implementation Specifications, and Certification Criteria, Mary E. Switzer Building, Mail Stop: 7033A, 330 C Street SW, Washington, DC 20201. Please submit one original and two copies. (Because access to the interior of the Mary E. Switzer Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the mail drop slots located in the main lobby of the building.)

Inspection of Public Comments: All comments received before the close of the comment period will be available for public inspection, including any personally identifiable or confidential business information that is included in a comment. Please do not include anything in your comment submission that you do not wish to share with the general public. Such information includes, but is not limited to: A person's social security number; date of birth; driver's license number; state identification number or foreign country equivalent; passport number; financial account number; credit or debit card number; any personal health information; or any business information that could be considered proprietary. We will post all comments that are received before the close of the comment period at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Mary E. Switzer Building, Mail Stop: 7033A, 330 C Street SW, Washington, DC 20201 (call ahead to the contact listed below to arrange for inspection).

FOR FURTHER INFORMATION CONTACT: Alex Baker, Office of Policy, Office of the National Coordinator for Health Information Technology, 202–260–2048.

SUPPLEMENTARY INFORMATION:

I. Background

For purposes of this Request for Information (RFI), prior authorization generally refers to rules imposed by healthcare payers that require approval for a medication, procedure, device, or other medical service be obtained prior to payment for the item or service. Prior authorization requirements are established by payers to help control costs and ensure payment accuracy by verifying that an item or service is medically necessary, meets coverage criteria, and is consistent with standards of care. Stakeholders have stated that diverse payer policies, provider workflow challenges, and technical barriers create an environment in which the prior authorization process is a source of burden for patients, providers, and payers; a cause of burnout for providers; and a health risk for patients when it delays their care.[1]

ONC's Strategy on Reducing Regulatory and Administrative Burden Relating to the Use of Health IT and EHRs,[2] released in 2020, identified challenges associated with the prior authorization process, including: (i) Difficulty in determining whether an item or service requires prior authorization; (ii) difficulty in determining payer-specific prior authorization requirements for those items and services; (iii) inefficient use of provider and staff time to navigate communications channels such as fax, telephone, and various web portals; and

[1] For additional discussion of administrative burden associated with the prior authorization process, see the CMS Interoperability and Prior Authorization proposed rule at 85 FR 82606.

[2] Office of the National Coordinator for Health Information Technology. Strategy on Reducing Regulatory and Administrative Burden Relating to the Use of Health IT and EHRs [PDF file]. February 2020. Retrieved from *https://www.healthit.gov/sites/default/files/page/2020-02/BurdenReport_0.pdf.*

(iv) unpredictable and lengthy amounts of time to receive payer decisions. The Strategy notes that payers and health IT developers have addressed prior authorization in an ad hoc manner with interfaces that reflect individual payer technology considerations, payer lines of business, and customer-specific constraints. In order to address these issues, the Strategy included a number of recommendations to strengthen electronic prior authorization processes, such as: Leveraging health IT to standardize data and processes around ordering services or equipment; coordinating efforts to advance new standards approaches; and incentivizing adoption and/or use of technology that can generate and exchange standardized data to support documentation needs.

In order to further explore these and other stakeholder recommendations, and to build on recent efforts related to electronic prior authorization, we seek public comments on how the ONC Health IT Certification Program (Certification Program) could incorporate standards, implementation specifications, and certification criteria to advance electronic prior authorization.

a. ONC Health IT Certification Program

The Certification Program [3] is a voluntary program under which health IT developers can obtain ONC certification for their health IT products. Requirements for certification are established by standards, implementation specifications, and certification criteria adopted through rulemaking by the Secretary. The Certification Program does not set any requirements for healthcare providers but supports the availability of certified health IT for use by healthcare providers under other federal, state, and private programs.

The Certification Program currently addresses electronic prior authorization for medications as part of the ''electronic prescribing'' certification criterion at 45 CFR 170.315(b)(3). On May 1, 2020, ONC published in the **Federal Register** the ''21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program'' final rule (21st Century Cures Act final rule). In this rule, ONC adopted the National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard, Version 2017071, for electronic prescribing and specified electronic prior authorization transactions supported by the standard as optional transactions which health IT developers may support in their products (85 FR 25678). However, the Certification Program does not yet address electronic prior authorization for other items and services that healthcare consumers may seek to obtain. Accordingly, for the purposes of this RFI, we are interested in certified health IT functions not yet included under the Certification Program that can support electronic prior authorization processes for items and services other than medications.

In the 21st Century Cures Act final rule, ONC also finalized a new certification criterion at § 170.315(g)(10), ''standardized API for patient and population services,'' to support the availability of secure, standards-based application programming interfaces (APIs) in certified health IT products. This criterion requires the use of FHIR Release 4.0.1 and several implementation specifications (85 FR 25742). Under the API Maintenance of Certification Requirement for the ONC Health IT Certification Program at § 170.404(b)(3), Certified API Developers (as defined in § 170.404(c)) with API technology previously certified to the criterion in § 170.315(g)(8) must provide API technology certified to § 170.315(g)(10) to all API Information Sources (as defined in § 170.404(c)) deployed with certified API technology no later than December 31, 2022 (85 FR 70072). As discussed in the 21st Century Cures Act final rule, we believe the availability of standards-based API functionality in provider EHR systems is an important step towards increased interoperability across the healthcare system (85 FR 25740). While the initial use case for this criterion has focused on patients' access to their health information, we believe this functionality can support a wide range of use cases including research, public health, quality measurement, and healthcare operations, including prior authorization processes.

b. Requirements Under HIPAA for Electronic Prior Authorization Transaction Standards

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Secretary must adopt electronic standards for use by ''covered entities,'' which is defined as including health plans, healthcare clearinghouses, and certain healthcare providers. The two standards adopted for referral certification and authorization transactions under HIPAA (§ 162.1302) include: NCPDP Version D.0 for retail pharmacy drugs; and X12 Version 5010x217 278 (X12 278) for dental, professional, and institutional request for review and response for items and services. The X12 275 standard, which is used to transmit additional documentation to health plans, is not currently mandated under HIPAA, but it may be used to support the exchange of the additional information that is required for prior authorization. Though payers are required to accept the X12 278 standard for electronic prior authorization transactions when transmitted by a provider, and providers have been encouraged to conduct the transaction electronically, an annual survey conducted by the Council for Affordable Quality Healthcare has found that the prior authorization transaction standard, and electronic prior authorizations in general, have not been widely used.[4]

HIPAA also requires that HHS adopt operating rules for the HIPAA standard transactions. Operating rules are defined at § 162.103 as the ''necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specifications as adopted for purposes of HIPAA Administrative Simplification.'' The National Committee on Vital and Health Statistics (NCVHS) reviews the operating rules developed by certain entities and advises the Secretary as to whether HHS should adopt them (section 1173(g)(3) of the Social Security Act). The Secretary adopts operating rules by expedited rulemaking in accordance with section 1173(g)(4) of the Social Security Act. To date, HHS has adopted operating rules for three HIPAA transactions: Eligibility for a health plan, healthcare claim status (76 FR 40458), and healthcare electronic funds transfers (EFT) and remittance advice (77 FR 48008).[5]

c. Recent Efforts To Advance Electronic Prior Authorization Processes

Several recent HHS efforts have focused on concerns about prior authorization, core technical and policy barriers, and approaches to improve prior authorization processes and reduce burden.

The Health Information Technology Advisory Committee (HITAC), established under section 3002 of the Public Health Service Act, has addressed prior authorization on several occasions. In October 2019, the HITAC

[3] For more information, see *https://www.healthit.gov/topic/certification-ehrs/about-onc-health-it-certification-program.*

[4] See *https://www.caqh.org/sites/default/files/explorations/index/2020-caqh-index.pdf.*

[5] For more information on operating rules, see *https://www.caqh.org/core/operating-rules.*

put forth recommendations establishing Interoperability Standards Priority Target Areas and identified a ''need for standards to support the integration of prior authorization into all applicable EHR-based ordering workflows.'' [6] In 2020, ONC charged the HITAC with establishing the Intersection of Clinical and Administrative Data (ICAD) Task Force in order to produce information and recommendations on the merging of clinical and administrative data. The ICAD Task Force, which included members of the HITAC and NCVHS, industry stakeholders, and the public, explored a wide range of topics, including transport and exchange structures; areas for clinical and operations data alignment; and privacy and security rules and protections.

The ICAD Task Force's final recommendations [7] to the HITAC included a recommendation to ''Establish Standards for Prior Authorization Workflows.'' Specifically, the final report recommended that ONC work with CMS, other federal actors, and standards development organizations to ''develop programmatic . . . specifications to create an authorization . . . such that the authorization and related documentation can be triggered in the relevant workflow system where the triggering event for the authorization is created.'' The Task Force emphasized that a future standards ecosystem for prior authorization should ''allow for standards development and evolution, so as to not preclude innovation, while including a 'floor' of standards to promote rapid adoption through common implementation.'' This approach can enable broad participation among stakeholders while avoiding unnecessary barriers for those who wish to innovate. It can also provide for rapid innovation and piloting, testing, and validation of new tools and standards to meet evolving needs. The final report also provided an overview of existing and emerging standards available to support prior authorization workflows. This included discussion of several HL7® FHIR® Implementation Guides (IGs) for exchange of prior authorization information, including the HL7® FHIR® Da Vinci Coverage Requirements Discovery (CRD), Documentation Templates and Coverage Rules (DTR), and Prior Authorization Support (PAS) IGs, which are discussed in more detail below.

In December 2020, the Centers for Medicare & Medicaid Services (CMS) released a notice of proposed rulemaking titled ''Reducing Provider and Patient Burden by Improving Prior Authorization Processes, and Promoting Patients' Electronic Access to Health Information for Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, and Issuers of Qualified Health Plans on the Federally Facilitated Exchanges'' (85 FR 82586, hereafter the Interoperability and Prior Authorization proposed rule). In that proposed rule, CMS proposed to require Medicaid Managed Care Plans, State Medicaid Agencies, Children's Health Insurance Program (CHIP) Agencies and CHIP Managed Care Entities, and Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges (impacted payers), to establish standards-based APIs to streamline the process of submitting prior authorization requests and reduce burden on both providers and payers. Specifically, CMS proposed to require impacted payers to implement and maintain: (i) A Documentation Requirement Lookup Service API to enable providers to determine which items and services need a prior authorization and what documentation is needed to submit the prior authorization request (85 FR 82608); and (ii) a Prior Authorization Support API to facilitate transmission of prior authorization requests and decisions while maintaining alignment with, and facilitating the use of, HIPAA transaction standards (85 FR 82609).

In the same notice of proposed rulemaking, ONC issued the ''Health Information Technology Standards and Implementation Specifications'' proposed rulemaking (85 FR 82632; hereafter the ONC Healthcare Operations Standards proposed rule), in which ONC proposed to adopt the implementation specifications referenced in CMS' proposals (85 FR 82632–33), including the HL7® FHIR® CRD, DTR, and PAS IGs supporting the two API proposals related to prior authorization. ONC proposed these specifications for adoption by HHS as part of a nationwide health IT infrastructure supporting burden reduction, healthcare cost reduction, and improved care quality.

As part of the Interoperability and Prior Authorization proposed rule, CMS did not propose to require providers to interact with the proposed payer APIs to conduct prior authorization activities. Instead, CMS stated its belief that providers would adopt the technology and workflows needed to take advantage of these APIs on a voluntary basis over time, following updates by health IT developers to electronic health record systems and related tools. CMS requested comment on additional ways to encourage implementation of these functions in EHRs, including the adoption of certification criteria in the ONC Health IT Certification Program (85 FR 82610). In response to this request for comment, many stakeholders expressed support for HHS advancing EHR functionality to enable seamless exchange of information facilitating prior authorization.

While CMS continues to consider the proposals put forth in the Interoperability and Prior Authorization proposed rule and public comments received thereon, we believe there are additional steps which HHS could explore to improve electronic prior authorization capabilities within health IT systems. Based on stakeholder input, including the recommendations of the ICAD Task Force, we also believe there is strong support across healthcare industry stakeholders for additional action.

d. Functional Capabilities for Electronic Prior Authorization in Certified Health IT

We are seeking comment on functional capabilities for electronic prior authorization that should be considered for inclusion in certified health IT. Specifically we are seeking comment on a core set of capabilities that would enable a certified Health IT Module or Modules to:

- Identify when prior authorization is applicable for an item or service, using clinical decision support and/or user input, and for receiving notifications of changes in such applicability;
- Query a payer API for prior authorization requirements for each item and service and identify in real time specific rules and documentation requirements;
- Collect clinical and administrative documentation needed to complete prior authorization documentation (electronic forms or templates) from a health IT system;
- Electronically submit completed documentation for prior authorization to a payer's API, along with supporting information;
- Receive a response from a payer regarding approval, denial (including a reason for denial), or need for additional information;
- Query a payer's system for updates on a pending prior authorization request and have a reason returned as to why a request is still pending; and

[6] HITAC recommendations on priority target areas, October 16, 2019: *https://www.healthit.gov/sites/default/files/page/2019-12/2019-10-16_ISP_TF_Final_Report_signed_508.pdf.*

[7] Final Recommendations of the ICAD Task Force, November 2020: *https://www.healthit.gov/sites/default/files/facas/ICAD_TF_FINAL_Report_HITAC_2020-11-06_0.pdf.*

• Effectively capture and persist digital signatures (or other indications of provider review and assent), enable data integrity of documentation over time, and support other features necessary to meet payer administrative requirements associated with prior authorization transactions.

We invite further comment on whether these are the appropriate minimum capabilities needed for certified health IT systems to successfully interact with payer systems to complete key electronic prior authorization activities.

e. Implementation Specifications To Support Electronic Prior Authorization Capabilities

As noted above, in the ONC Healthcare Operations Standards proposed rule ONC proposed to adopt, on behalf of HHS, three implementation specifications relevant to electronic prior authorization (85 FR 82632):

• HL7® FHIR® Da Vinci Coverage Requirements Discovery (CRD) Implementation Guide.[8]

• HL7® FHIR® Da Vinci Documentation Templates and Coverage Rules (DTR) Implementation Guide.[9]

• HL7® FHIR® Da Vinci Prior Authorization Support (PAS) Implementation Guide.[10]

These IGs were developed by the Da Vinci project, an initiative established in 2018 to help payers and providers positively impact clinical, quality, cost, and care management outcomes.[11] The Da Vinci project is part of the HL7® FHIR® Accelerator Program.[12] Under the Da Vinci project, industry stakeholders have facilitated the definition, design, and creation of use-case-specific implementation documentation and supporting materials based upon the HL7® FHIR® standard in order to address value-based care initiatives. Because the Da Vinci project is aligned with HL7® and its consensus-based approach to standards development, new and revised standards are easily and freely available for public use. While ONC proposed to adopt these IGs in the ONC Healthcare Operations Standards proposed rule in tandem with the proposed requirements for payers in the CMS Interoperability and Prior Authorization proposed rule (85 FR 82632), we are now seeking to understand the appropriateness of using these IGs to support functionality within certified health IT systems used by healthcare providers and other stakeholders.

Below we offer a description of each IG and a discussion of key issues to help the public provide input.

Da Vinci Coverage Requirements Discovery (CRD) Implementation Guide

The purpose of this IG is to define a workflow whereby clinical IT systems can query coverage requirements from payer IT systems at the time treatment decisions are made. This ensures that clinicians and administrative staff can make informed decisions and meet the requirements of the patient's insurance coverage. Different insurance products may have varying requirements for prior authorization documentation. Providers who fail to adhere to payer requirements may not receive payer coverage for care provided or may cause a delay in needed care, which may result in increased out of pocket costs for patients, potential additional visits and changes in the preferred care plan, health risks for the patient, and increased burden for all parties involved.

This IG utilizes the Clinical Decision Support (CDS) Hooks specification[13] in order to: Establish triggers for querying payers for coverage requirements; define how payers publish services describing coverage requirements; define how clinical systems query payers for coverage requirements; and define how clinical systems present coverage requirements to users for clinical decision support. The CRD IG allows provider IT systems to query payer IT systems via CDS Hooks to determine if there are documentation requirements for a proposed medication, procedure, or other service. When a provider triggers a prior authorization-related CDS Hook within their IT system indicating that payer documentation requirements exist for a product or service, a CDS Hooks Card(s) is returned with information about the documentation requirements and options to read, accept a suggestion, or interact with an app to address those requirements.

The CRD IG extends the CDS Hooks specification to define additional hook resources, a hook configuration mechanism, additional prefetch capabilities, and additional response capabilities. In addition to the reliance of this IG on the nascent CDS Hooks specification, these extensions may change in the future, depending on how they are incorporated into the CDS Hooks specification, which may cause compatibility issues with future versions of the CRD IG.

The information that may be shared using this IG includes:

• Updated coverage information.

• Alternative preferred/first-line/lower-cost services/products.

• Documents, rules, forms, templates, and links to resources related to coverage.

• Updated clinical information for decision support.

• Indications of whether prior authorization is required.

Documentation Templates and Coverage Rules (DTR) Implementation Guide

The purpose of the DTR IG is to ensure the completion of documentation needed to demonstrate medical necessity for a proposed medication, procedure, or other service. This IG specifies how payer coverage rules can be executed in a provider context to ensure that documentation requirements are met. A companion to the CRD IG, the DTR IG leverages the ability of CDS Hooks Cards to link to Substitutable Medical Applications, Reusable Technologies (SMART) on FHIR[14] apps to launch and execute payer rules. The DTR IG describes the interactions between a SMART on FHIR app and the payer's IT system to retrieve the payer's documentation requirements, in the form of Clinical Quality Language (CQL)[15] and a FHIR Questionnaire resource, for use by the provider and the provider's IT system. The provider's IT system communicates with the payer's IT system, which informs the provider's system of the documentation that needs to be completed using the CQL logic and the FHIR Questionnaire resource. To populate the FHIR QuestionnaireResponse, which are the results of the FHIR Questionnaire resource, the IG describes a process where the provider's IT system auto-populates as many fields as possible, then alerts the provider to any information gaps, which the provider can complete manually. The IG describes that all relevant information from these transactions is stored in the provider's IT system for future use, including to support subsequently providing the FHIR QuestionnaireResponse to the payer as

[8] For more information, see *http://www.hl7.org/fhir/us/davinci-crd/.*

[9] For more information, see *http://hl7.org/fhir/us/davinci-dtr/.*

[10] For more information, see *http://hl7.org/fhir/us/davinci-pas/.*

[11] For more information, see *https://www.hl7.org/about/davinci/.*

[12] For more information, see *http://www.hl7.org/documentcenter/public/pressreleases/HL7_PRESS_20190211.pdf.*

[13] For more information, see *https://cds-hooks.hl7.org/.*

[14] For more information, see *https://docs.smarthealthit.org/*

[15] For more information, see *https://cql.hl7.org/*

part of documentation for prior authorization.

Da Vinci Prior Authorization Support (PAS) Implementation Guide

The PAS IG uses the FHIR standard as the basis for (i) assembling the information necessary to substantiate clinical need for a particular treatment; and (ii) submitting the assembled information and prior authorization request to an intermediary before transmission to the intended recipient. Under the workflow specified in the PAS IG, to meet regulatory requirements for HIPAA standard transactions discussed above, the FHIR interface communicates with an intermediary functionality (such as a clearinghouse) that converts the FHIR requests to a HIPAA compliant X12 278 request transaction for submission to the payer. In some cases, the payer itself, if acting as the intermediary or clearinghouse, may convert the request to a HIPAA compliant X12 278 transaction. Under the workflow specified in the PAS IG, the response from the payer would then flow back through the intermediary functionality using X12 and would be made available to the provider's health IT system using the FHIR standard. The response would indicate whether the payer approves (and for how long), denies (with a reason for denial), or requests more information about the prior authorization request. This IG also defines capabilities around the management of prior authorization requests, including checking on the status of a previously submitted request, revising a previously submitted request, and cancelling a request.

Discussion

Based on public input to date, including comments received on the CMS Interoperability and Prior Authorization and ONC Healthcare Operations Standards proposed rules in December 2020, and our own review, we have identified a number of issues that may be relevant to the use of these IGs in certified health IT. These include concerns that the IGs lack maturity and have not yet undergone extensive testing in production and rely on other IGs and features in FHIR that are immature. In some cases, the available versions of the IGs propose changes and pre-adopt changes to dependent IGs, or request feedback on design considerations within the IGs that may impact compatibility between these versions and future versions. Additional issues regarding the PAS IG include concerns around the translation from FHIR to X12 included as part of the specification. While enabling compliance with existing regulatory requirements, the translation approach may increase the number of transactions necessary for exchange as well as dependency on intermediaries. Issues regarding the DTR and CRD IGs include concerns that the detailed workflow described in the specification leverages CDS Hooks functionality, which has not yet been adopted in any certification criterion under the Certification Program. We welcome additional information about these IGs, especially given that a year has passed since we last heard from the public on this topic as part of the ONC Healthcare Operations Standards proposed rule.

f. Additional Approaches To Support Electronic Prior Authorization: Healthcare Attachments

The implementation specifications described above represent important standards development collaborations between industry stakeholders. We believe these activities may present an important pathway to streamlining electronic prior authorization processes, as reflected in our proposal in the ONC Healthcare Operations Standards proposed rule. However, we understand that there are capabilities and standards currently supported by certified health IT products that may facilitate certain elements of prior authorization workflows. For instance, electronic exchange of healthcare attachments can be used to transmit clinical information in conjunction with an electronic administrative transaction to meet health plan requirements. ONC is aware of several standards initiatives within the last five years focused on advancing standards and functionality supporting clinical documents for a broad range of use cases, including for attachments within prior authorization and other administrative workflows.

These initiatives include the HL7 implementation guide based on the Consolidated Clinical Document Architecture (C–CDA) Release, and HL7 FHIR Documents:

- HL7 C–CDA R2 Attachment Implementation Guide: Exchange of C–CDA Based Documents, Release 1.[16]
- HL7 FHIR Release 4, Section 3.3: FHIR Documents.[17]

The HL7 C–CDA R2 Attachment Implementation Guide (CDA Attachments IG) defines the requirements for sending and receiving standards-based electronic attachments and incorporates certain administrative information into the document header. The C–CDA document templates are designed to be electronic versions of the most common types of paper document attachment information. ONC has adopted the C–CDA standard for use in the Certification Program in § 170.205.

An HL7 FHIR Release 4 FHIR Document (FHIR Documents) is a set of healthcare-related information that is assembled into a single package that provides a coherent statement, establishes its own context, and includes attribution with regard to who is making the statement. The FHIR Documents section of the base FHIR Release 4 standard (adopted by ONC in § 170.215) specifies how FHIR resources can be used to build documents that represent a statement of healthcare information, including representing clinical observations and services as a cohesive composition. The resulting document is an immutable set of resources with a fixed presentation that can be used for a wide range of use cases, including administrative transactions.

Discussion

Healthcare and health IT stakeholders have called for a standardized approach to electronic healthcare attachments, while emphasizing that solutions should align with advances in interoperability and that HHS policy should allow for innovation (for example, see public comments received by the HITAC in 2019,[18] the NCVHS in 2018,[19] 2020,[20] and 2021,[21] and the joint ICAD taskforce in 2020). Because of the ongoing advancement of health IT standards and functionality supporting clinical and care coordination workflows, there are several options available for interoperable exchange today, including both document-based exchange using the C–CDA base standard and exchange using standardized APIs using the FHIR base standard. This increase in interoperable options can support the combination of clinical and administrative data and allow for more timely and effective

[16] For more information, see *https://www.hl7.org/documentcenter/public/standards/dstu/CDAR2_AIG_CCDA_EXCHANGE_R1_STU_2017AUG.pdf.*

[17] For more information, see *http://www.hl7.org/fhir/documents.html.*

[18] See *https://www.healthit.gov/sites/default/files/facas/2019-03-20_HITAC_Meeting_Notes.pdf.*

[19] See *https://ncvhs.hhs.gov/transcripts-minutes/transcript-standards-subcommittee-predictability-roadmap-hearing-day-one-december-12-2018/* and *https://ncvhs.hhs.gov/transcripts-minutes/transcript-standards-subcommittee-predictability-roadmap-hearing-day-two-december-13-2018/.*

[20] See *https://ncvhs.hhs.gov/wp-content/uploads/2020/10/Public-Comments-CAQH-CORE-Operating-Rules-for-Federal-Adoption-August-2020r.pdf.*

[21] See *https://ncvhs.hhs.gov/wp-content/uploads/2021/08/Public-Comments-Standards-Subcommittee-Listening-Session-August-25-2021.pdf.*

approvals of prior authorization requests.

We understand that stakeholders may also have concerns with these potential approaches, for instance, concerns related to lack of testing and production implementation of these approaches that are specific to the prior authorization use case, despite widespread use of the underlying standards for other purposes. Regarding the underlying standards for each approach, we understand that while the C–CDA has the benefit of being in widespread use, the more inflexible nature of the standard may increase the ongoing burden of maintenance and updates to the standard over time. FHIR solutions offer a more flexible and agile option over time, but there may be additional development and specification needed for their effective implementation. We welcome additional information about these standards and implementation specifications for this part of the prior authorization workflow.

We also welcome further information on any other additional areas we should consider in supporting the exchange of healthcare attachments in prior authorization workflows. For example, we understand there is also ongoing work to create a FHIR-based IG for healthcare attachments.[22] In addition, while the scope of this RFI is focused on prior authorization processes, we recognize that the systems used for this purpose may also support a wide range of administrative transactions and operations workflows and that healthcare attachments are used for other administrative and operations purposes such as claims processing. In the same way that aligned standards between administrative systems and clinical systems can optimize effectiveness, aligned standards across administrative use cases may also support efficiency. We therefore welcome public comment on the potential intersection with other administrative and operations processes that we should consider when exploring options for healthcare attachments, as well as comments on how to best harmonize these efforts. Finally, we welcome public comment on other standards initiatives, pilot projects, or health IT resources that we should explore to identify promising best practices, emerging standards, or innovative approaches to advance interoperable health IT for healthcare operations use cases.

[22] For more information, see *http://build.fhir.org/ig/HL7/davinci-ecdx/*.

II. Request for Comments

ONC seeks public comments on whether to adopt additional standards, implementation specifications, and certification criteria as part of the Certification Program to ensure that technology is available to providers for the automated, electronic completion of prior authorization tasks. In addition to general comments on the issues presented above, we are seeking input on the following questions:

Certified Health IT Functionality

- Do the functional capabilities described above include all necessary functionality for certified Health IT Modules to successfully facilitate electronic prior authorization processes? Are there additional capabilities that should be included in certified Health IT Modules to address these needs? Should any of these functional capabilities not be included in certified Health IT Modules (please cite the reason they should be excluded) or should ONC focus on a more limited set of functional capabilities for certified Health IT Modules than those described above?
- Should ONC adopt a certification criterion for prior authorization that accounts for the full, HIPAA compliant workflow for prior authorization transactions including translation from FHIR to the X12 standard? Or should ONC adopt certification criteria that include only the workflows up to the point of translation? What ongoing challenges will stakeholders face if there is a need to translate between HIPAA-adopted standards and other standards that have only been adopted under the Certification Program used to support prior authorization transactions? How should HHS address alignment between standards adopted for HIPAA transactions and standards adopted under the Certification Program?
- If ONC were to propose to include these functional capabilities as part of the Certification Program, how should a new certification criterion (or multiple certification criteria) be structured, including technical requirements, attributed standards, and implementation specifications? ONC's experience adopting certification criteria suggests that, at times, combining related functions into a single Health IT Module is most appropriate, while in other cases, health IT functionalities are best represented by separate certification criteria, despite being functionally related. For instance, under a single criterion, different products and services in the market may be ''tightly coupled'' for the purposes of certification, even when they can be purchased and implemented separately. We seek the public's input on which functional capabilities for prior authorization should be tested and certified together as part of one certification criterion, and which capabilities should be separated into different certification criteria.

Implementation Specifications for Prior Authorization

- What is the current readiness of the three FHIR-based Da Vinci IGs described above for adoption as part of certification criteria for health IT? Given limited testing of these specifications to date, what would be a feasible timeline for use of these IGs in production for prior authorization transactions? What, if any, additional changes are needed for these IGs prior to adoption as part of certification criteria for health IT?
- If the existing IGs are not yet ready for adoption, should ONC still propose certification criteria? Should ONC consider proposing certification criteria incorporating the FHIR Release 4 base standard but delay adopting implementation specifications until a later date? What are the potential risks of this approach?
- If we were to adopt certification criteria referencing the base standard and then update those criteria to integrate implementation specifications in the future, how should these integrations be handled? When and how should the existing systems be replaced? All at once, or as a series of transitional steps?
- Do the Da Vinci IGs effectively support Federal and state legal requirements and/or health plan compliance requirements for clinical documentation, for example, signatures (or other indications of provider review and assent), record retention over long periods of time, and document security to ensure data integrity once stored?
- What alternative approaches to designing certification criteria should ONC explore that are not based on the three Da Vinci IGs described herein?
- Are there simplified approaches to the workflows described in the Da Vinci IGs that ONC should consider as alternative approaches to support electronic prior authorization?
- Are there new IGs which need to be developed in order to integrate with other workflows relevant to prior authorization? In particular, what IGs may still need to be developed in order to integrate with HIPAA administrative transaction standards?

Healthcare Attachment Standards

• Would the specifications within the CDA Attachments IG, if adopted as part of a certification criterion, support more effective exchange of healthcare attachments for prior authorization? Would any changes to the IG be needed, or would additional functionalities or standards be required for effective implementation of the CDA Attachments IG in certified health IT?

• Would the use of FHIR Documents, if adopted as part of a certification criterion, support more effective exchange of healthcare attachments? Are there any gaps or constraints that would need to be further specified, such as through an IG, in order for FHIR Documents to be effective for this use case when implemented in certified health IT? Would the adoption of a certification criterion for FHIR Documents support other administrative use cases beyond prior authorization?

• Given limited testing of these approaches to date, what would be a feasible timeline for use of the CDA Attachments IG or FHIR Documents in production for prior authorization transactions?

• Which of these approaches would better accommodate improvements over time to meet payer and provider needs? Should ONC consider adopting certification criteria referencing one approach over the other, or should ONC consider supporting both approaches within certified health IT?

• If the IGs developed by the Da Vinci Project, or an alternate set of IGs addressing the full scope of prior authorization workflows, are not yet ready for adoption in certified health IT, should ONC propose certification criteria to support healthcare attachments transactions for prior authorization alone?

• Healthcare attachments are used for a wide range of operations and administrative workflows beyond prior authorization. Are either of the standards discussed above commonly used in other administrative or operations transactions? Would there be a burden or benefit to using either, or both, standards in light of other administrative or operations workflows? Are there additional standards or implementation specifications ONC should consider that are in common use for healthcare attachments used in other administrative or operations workflows?

Impact on Patients

• How could potential changes to the Certification Program to better support prior authorization positively impact healthcare consumers?

• How could potential changes reduce the time for patients to receive needed healthcare services, reduce patient non-adherence, and/or lower out-of-pocket costs?

• Besides the provider to payer interactions discussed in this RFI, is there additional functionality that could be added to the Certification Program that would better support patients' participation in the prior authorization process?

Impact on Providers

• To what degree is availability of electronic prior authorization capabilities within certified health IT likely to reduce burden for healthcare providers who currently engage in prior authorization activities?

• To what degree are healthcare providers likely to use these new capabilities across their patient panels? Will additional incentives or requirements be needed to ensure healthcare providers effectively use these capabilities? What accompanying documentation or support would be needed to ensure that technology capabilities are implemented in ways that effectively improve clinical workflows?

• What estimates can providers share about the cost and time (in hours) associated with adopting and implementing electronic prior authorization functionality as part of care delivery processes?

Impact on Developers

• What estimates can health IT developers share about the cost and time (in hours) of developing electronic prior authorization functionality within certified health IT products?

• What factors would inform the burden for health IT developers to develop certified Health IT Modules for electronic prior authorization based on the three Da Vinci IGs described above?

• What would be the burden on health IT developers for prior authorization certification criteria referencing the base FHIR standard if there were not yet specific IGs adopted as well? How would potentially moving to criteria with use case specific IGs over time impact development burden? Would such a staged approach be detrimental or beneficial to the long-term development timeline and burden for health IT developers seeking to support electronic prior authorization?

Payer Implementation

• How could the Certification Program support the technology needs of healthcare payers in implementing electronic prior authorization? Should ONC consider payer workflows in the development of certification criteria to support the potential use of certified Health IT Modules by healthcare payers? Would the availability of certified Health IT Modules supporting these workflows reduce the burden for healthcare payers of engaging with healthcare providers in prior authorization processes?

• To what extent would healthcare payers be likely to use these certified Health IT Modules if they were available? To what extent are health IT developers likely to seek certification for Health IT Modules supporting payer workflows if these certification criteria were available?

Dated: January 19, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–01309 Filed 1–21–22; 8:45 am]

BILLING CODE 4150–45–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 21–456; RM–11855; FCC 21–123; FR ID 66659]

Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (FCC or Commission) proposes to revise its rules governing spectrum sharing among non-geostationary satellite orbit, fixed-satellite service (NGSO FSS) systems. The FCC proposes that its existing spectrum sharing mechanism for NGSO FSS systems will be limited to those systems approved in the same processing round. The FCC also proposes to adopt a rule providing that later-round NGSO FSS systems will have to protect earlier-round systems, and invites comment on how to define such protection. In addition, the FCC seeks comment on whether to sunset, after a period of time, the interference protection afforded to an NGSO FSS system because of its processing round status.

DATES: Comments are due on or before March 25, 2022; reply comments are due on or before April 25, 2022.

ADDRESSES: You may submit comments, identified by IB Docket No. 21–456, by any of the following methods:

• *Electronic Filers.* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs.*

• *Paper Filers.* Parties who file by paper must include an original and one copy of each filing.

Filings may 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.

• 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. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), or to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.), send an email to *FCC504@fcc.gov* or call 202–418–0530 (voice) or 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Clay DeCell, 202–418–0803.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 21–123, adopted December 14, 2021, and released December 15, 2021. The full text is available online at *https://docs.fcc.gov/public/attachments/FCC-21-123A1.pdf.* The document is also available for inspection and copying during business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Comment Filing Requirements

Interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

Ex Parte Presentations

Pursuant to 47 CFR 1.1200(a), this proceeding will 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 47 CFR 1.1206(b). In proceedings governed by 47 CFR 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.

Paperwork Reduction Act

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

Synopsis

I. Introduction

In this notice of proposed rulemaking (NPRM), the Commission builds upon its efforts to update rules governing a new generation of non-geostationary satellite orbit, fixed-satellite service (NGSO FSS) systems. In an accompanying Order, we grant in part a petition for rulemaking filed by Space Exploration Holdings, LLC (SpaceX). In the NPRM, we seek comment on further revisions to the spectrum sharing requirements among NGSO FSS systems. We propose that the Commission's existing spectrum sharing mechanism for NGSO FSS systems will be limited to those systems approved in the same processing round. We also propose to adopt a rule providing that later-round NGSO FSS systems will have to protect earlier-round systems, and invite comment on how to define such protection. In addition, we seek comment on whether to sunset, after a period of time, the interference protection afforded to an NGSO FSS system because of its processing round status. This rulemaking will continue to facilitate the deployment of NGSO FSS systems capable of providing broadband and other services on a global basis, and will promote competition among NGSO FSS system proponents, including the market entry of new competitors.

II. Background

In recent years, the Commission has received an unprecedented number of applications for NGSO space station licenses, including for NGSO FSS systems.

Applications for NGSO FSS system licenses are considered in groups based on filing date, under a processing round procedure. The Commission reviews each application in the processing round and all the pleadings filed in response to each application. Based upon this review and consideration of such other matters as it may officially notice, the Commission will grant all the applications for which the Commission finds that the applicant is legally, technically, and otherwise qualified, that the proposed facilities and operations comply with all applicable rules, regulations, and policies, and that grant of the application will serve the public interest, convenience and necessity.

The Commission has adopted rules for spectrum sharing among NGSO FSS systems. NGSO FSS operators must coordinate with one another in good faith the use of commonly authorized frequencies. Absent a coordination agreement between two or more NGSO FSS satellite systems, a default spectrum-splitting procedure applies. Under the default spectrum-splitting procedure, whenever the increase in system noise temperature of an earth station receiver, or a space station receiver for a satellite with on-board processing, of either system, ΔT/T, exceeds 6 percent due to interference from emissions originating in the other system in a commonly authorized frequency band, such frequency band will be divided among the affected satellite networks in accordance with the following: (1) Each of n (number of) satellite networks involved must select 1/n of the assigned spectrum available in each of these frequency bands; (2) the affected station(s) of the respective satellite systems may operate in only the selected (1/n) spectrum associated with its satellite system while the ΔT/T of 6 percent threshold is exceeded; and (3) all affected station(s) may resume operations throughout the assigned frequency bands once the threshold is no longer exceeded.

In the *NGSO FSS Report and Order,* the Commission stated that it will ''initially limit'' sharing under the ΔT/T of 6 percent threshold to qualified applicants in a processing round. The Commission explained that treatment of later applicants must necessarily be case-by-case based on the situation at the time, and considering both the need to protect existing expectations and investments and provide for additional entry as well as any comments filed by incumbent operators and reasoning presented by the new applicant.

On April 30, 2020, SpaceX filed a petition for rulemaking to revise and clarify the Commission's spectrum sharing rules for NGSO FSS systems. SpaceX proposes that the Commission codify protection rights for NGSO FSS systems from those systems authorized through a later processing round.

III. Discussion

After review of the SpaceX Petition and the comments and opposition filed, we conclude that the record on the Petition discloses sufficient reasons to justify the institution of a rulemaking proceeding seeking further comment on such a proposal. Indeed, the Petition raises fundamental issues affecting the spectrum access rights of NGSO FSS systems. When the Commission recently considered and revised several important elements of NGSO FSS licensing, it left to ''case-by-case'' evaluations how NGSO FSS applications filed after a processing round would be treated. Since then, the Commission has initiated second NGSO FSS processing rounds in frequency bands subject to a prior processing round and gained further experience implementing a case-by-case approach to NGSO FSS applications filed after a relevant processing round. The time is ripe to consider updating the Commission's rules concerning these issues.

We therefore initiate a notice of proposed rulemaking to consider revisions to the treatment of NGSO FSS systems authorized through different processing rounds. We also seek comment on the application of any rule changes in this proceeding to existing licensees, grantees, applicants, and market access petitioners. Further consideration of these issues is appropriate because of the strong interest shown not only in multiple NGSO FSS applications, but also in the comments on the Petition. Given the Commission's 2017 rulemaking on NGSO FSS issues and the ideas already submitted in response to the petition for rulemaking, we believe that proceeding with a notice of proposed rulemaking at this stage will allow for fulsome comment of the issues without forcing the delay associated with an initial notice of inquiry.

In its Petition, SpaceX requests that the Commission revise or clarify the spectrum sharing obligations that apply among co-frequency NGSO FSS systems authorized through different processing rounds. SpaceX proposes that the default spectrum-splitting procedure be expressly limited to those NGSO FSS systems authorized within the same processing round. Among systems authorized through different processing rounds, SpaceX proposes that later-round NGSO FSS systems protect earlier-round systems up to a specified interference-to-noise (I/N) level to be developed and adopted by the Commission, but that this protection should sunset after a period of time. SpaceX also argues that sharing of beam-pointing information should be explicitly required among NGSO FSS operators to facilitate interference analyses. We address and invite comment on these proposals, and also seek comment on alternative proposals raised in the comments, below.

A. Limiting the Default Spectrum-Splitting Procedure to Systems Authorized Through the Same Processing Round

While the Commission stated in the *NGSO FSS Report and Order* that it will ''initially limit'' the spectrum-splitting procedure to qualified NGSO FSS applicants in a processing round, there is no such limitation in the relevant rule text. SpaceX contends that NGSO FSS operators have planned, invested, and begun deploying based on their assessment of the specific characteristics of other participants in their processing round, and that these characteristics allow licensees to estimate the amount of spectrum likely to be available during a situation governed by the spectrum-splitting procedure. To provide greater certainty to NGSO FSS operators as to their future sharing environment, SpaceX proposes that the Commission adopt a rule providing that the existing spectrum-splitting procedure applies only to NGSO FSS systems authorized within the same processing round.

This proposal is consistent with Commission licensing decisions. In each recent NGSO FSS system license and grant of market access, the requirement to apply the default spectrum-splitting procedure has been limited to among NGSO FSS systems filed within the same processing round. We believe that adopting a rule limiting the existing spectrum-splitting procedure to only NGSO FSS systems authorized within the same processing round will provide greater clarity and regulatory certainty to NGSO FSS system licensees and market access recipients, and therefore propose to adopt it. We invite comment on this proposal. This approach, if adopted, would eliminate the ''case-by-case'' consideration of how to treat later applicants relative to approved systems, which the Commission previously explained would take into account various factors, including the potential for additional entry. We seek comment on how limiting the existing spectrum-splitting procedure to NGSO FSS systems authorized within the same processing round will impact later applicants, including the potential for additional entry.

B. Protection of Earlier-Round Systems From Later-Round Systems

For an NGSO FSS licensee to invest potentially billions of dollars in a new system, SpaceX argues it must have some certainty that its spectrum rights will be maintained as later-filed NGSO FSS applications are considered. SpaceX therefore proposes that NGSO

FSS systems filed in a later processing round be required to protect NGSO FSS systems authorized through an earlier processing round.

We believe that adopting this principle in our rules would clarify the rights and obligations of NGSO FSS system grantees. The protection of an NGSO FSS system from systems authorized through a subsequent processing round goes to the heart of the stability of interference environment the Commission intended to create through use of the processing round procedure. Indeed, the Commission's licensing of a later-round NGSO FSS system has confirmed that it must protect earlier-round systems from harmful interference.

We therefore propose to adopt a rule that NGSO FSS licensees and market access recipients are entitled to protection from NGSO FSS systems authorized through later processing rounds. Specifically, we propose to adopt a rule providing that, prior to commencing operations, an NGSO FSS licensee or market access recipient must either certify that it has completed a coordination agreement with any operational NGSO FSS system licensed or granted U.S. market access in an earlier processing round, or demonstrate that it will not cause harmful interference to any such system with which coordination has not been completed. We also discuss below alternative, specific protection criteria that could be developed for this proposed rule. Notwithstanding a requirement to protect earlier-round NGSO FSS systems, we expect that coordination among NGSO FSS operators, including those authorized through different processing rounds, offers the best opportunity for efficient spectrum sharing. Accordingly, we also propose to adopt a rule providing that the good-faith coordination requirement applies among all NGSO FSS grantees, including those authorized through different processing rounds. We invite comment on these proposals, including on the burdens associated with any technical demonstrations of compatibility. In particular, we invite comment on how best to establish the protection of authorized NGSO FSS systems under deployment while encouraging competition and new entrants into the market.

C. Level of Protection for Earlier-Round Systems

To quantify the level to which a later-round NGSO FSS system would have to protect an earlier-round system, SpaceX recommends the Commission develop and adopt an appropriate interference-to-noise (I/N) limit. While not proposing a specific I/N value, SpaceX suggests that such a limit incorporate a standard reference antenna mask and standard noise temperature. Applicants in a later processing round would be required to demonstrate that their proposed systems could comply with the I/N limit based on a probabilistic analysis. In addition, such an I/N limit could specify a percentage of time during which the limit may be exceeded.

Beyond the initial difficulty of developing such an I/N limit for protection of NGSO FSS systems, commenters raise potential shortcomings of an I/N approach. Because the I/N limit would reflect generic NGSO system parameters and not the parameters of the NGSO system to be protected, it could provide insufficient protection to an NGSO system with especially sensitive antennas. Adoption of an I/N limit could also discourage coordination if either the earlier-round licensee or later-round licensee preferred to operate within the I/N limit rather than a negotiated alternative. Requiring applicants to perform interference analyses for the potentially thousands of satellites authorized through previous processing rounds, many of which may never be launched, could also place undue burdens on new entrants, especially those with limited resources.

Commenters propose alternatives to an I/N limit that would provide for the protection of earlier-round NGSO FSS systems from later-round systems. ViaSat suggests the use of network performance degradation as an interference criterium. AST recommends the Commission consider an approach that is harmonized with Recommendation ITU–R S.1323–2 or RR No. 22.5L of the ITU Radio Regulations, which use for a protection criterion the increase of the percentage of the time allowance for the carrier-to-noise (C/N) value associated with the shortest percentage of time specified in the short-term performance objective of the system to be protected. O3b proposes that NGSO FSS systems authorized through different processing rounds make use of the existing spectrum-splitting mechanism, but that the earlier-round system be entitled to use 75% of the available spectrum and the later-round system be entitled to use 25% of the available spectrum, instead of the equal split applicable to NGSO FSS systems authorized through the same processing round.

We believe that quantifying a level of protection for earlier-round systems would clarify the rights and obligations of NGSO FSS licensees in different processing rounds. We invite specific comment on what an appropriate I/N limit would be to protect NGSO FSS systems, what an appropriate percentage of time would be during which the I/N limit may be exceeded, and what the standard reference antenna mask and noise temperature should be in developing an appropriate I/N value or other criteria. In addition, we invite comment on the alternative proposals above and on any other appropriate means to ensure protection of earlier-round NGSO FSS systems from later-round systems, while allowing meaningful new entry and encouraging operator-to-operator coordination as the first resort.

In particular, we invite comment on whether to adopt criteria based upon the percentage of degraded throughput experienced by the NGSO FSS system. Considering the degraded throughput may be appropriate because most, if not all, modern NGSO systems will use adaptive coding and modulation (ACM) to allow maintaining a satellite connection in spite of signal degradation, but at lower throughput rates. Such criteria could be developed consistent with Recommendation ITU–R S.2131–0, ''Method for the determination of performance objectives for satellite hypothetical reference digital paths using adaptive coding and modulation.'' That recommendation suggests that satellite systems using ACM should be designed to meet performance objectives stated as either the packet error ratio or the spectral efficiency (bit/s/Hz) as a function of C/N. While this Recommendation does not provide specific values for the percentage of degraded throughput that should not be exceeded, we invite comment on establishing a limit under such a criteria. We also seek comment on specific values and on the suitability of this approach in general, including on the burdens of computing any limit that may be adopted under the alternatives set forth above. Should a degraded throughput analysis consider unavailability as well?

D. Sharing Beam-Pointing Information

The Commission's rules require NGSO FSS operators to coordinate in good faith the use of commonly authorized frequencies. Beyond this general requirement, SpaceX proposes that earlier-round NGSO FSS system operators be specifically required to share data on their beam locations with later-round NGSO FSS system operators to facilitate analysis of and compliance with its proposed I/N metric. SpaceX argues that confidentiality or non-disclosure agreements could ensure that

data is not used by competitors for any purpose other than avoiding interference, such as marketing. Several commenters raise concerns that a requirement to share beam data may be inefficient, impractical, or overly competitively sensitive in certain cases. One commenter also suggests the Commission adopt broader information sharing requirements for operator-to-operator coordination.

We believe that information sharing among NGSO FSS operators is essential to their efficient use of spectrum. Beyond our existing, flexible, good-faith coordination requirement, we invite comment on whether to specify sharing of certain types of information, such as beam-pointing information, that may be necessary for the implementation of any spectrum-sharing solution or protection criteria between NGSO FSS systems. Such information sharing requirements could involve NGSO FSS systems authorized through the same processing round or different processing rounds. We also seek comment on any practical concerns associated with such information sharing, and how best to address any associated, potential, competitive harms. For example, should the Commission adopt rules or mechanisms, for example, a protective order, to facilitate the sharing of the information? More broadly, should we add a definition of ''good faith'' coordination in our rules? If so, what elements should it include? For example, should NGSO FSS operators specifically be required to share all necessary technical information to perform an interference analysis, and do so in a timely fashion upon request, to meet the ''good faith'' coordination standard? We also seek comment on how the Commission might encourage NGSO FSS operators to build and deploy systems capable of sharing beam-pointing data and enabling other methods of spectrum sharing through coordination. How could the Commission encourage the development and deployment of systems that are more spectrally efficient? How might the Commission modify its NGSO sharing rules to incentivize flexible and efficient deployment?

E. Sunsetting of Protection

SpaceX proposes that the protection of earlier-round systems from later-round systems sunset after a period of time. SpaceX argues that a sunsetting provision would encourage earlier-round licensees to coordinate with later-round licensees, and avoid entrenching incumbents and stymieing future innovation. One commenter similarly argues that processing rounds may be ''condensed'' and protections sunset over time. Sunsetting could occur, for example, six years after licensing to coincide with the first NGSO system deployment milestone, ten years after licensing, or fifteen years after licensing. Other commenters argue that any sunsetting provision would be arbitrary, premature, or unnecessary given the Commission's existing good-faith coordination requirement.

We invite comment on sunsetting of protections applied to NGSO FSS systems, including the timing of such sunsetting. In particular, we seek comment on whether sunsetting protection for NGSO FSS systems under deployment would unduly disrupt their operations. Should we consider sunsetting protections for an NGSO FSS system before the expiration of its 15-year license term? Would a shorter sunset period better promote competition? If so, when should the trigger/start date for sunsetting begin? At the date of the license grant, the beginning of the license period, or some other time? Should we expect that advances in technology for second-generation NGSO FSS systems will make sharing with new entrants easier? Or, conversely, would allowing new entrants to take advantage of technological enhancements in incumbent systems dull the incentives for incumbents to invest in such upgrades? What protection should apply to an NGSO FSS system after any sunsetting? How would sunsetting of protections affect the willingness to invest in NGSO FSS system development, and the likelihood of robust services being deployed to the public by such systems? Would a sunsetting provision promote competition, including the market entry of new competitors? Are there other ways to fashion a sunsetting provision that would maintain the reasonable expectations of earlier licensees and at the same time further the goal of promoting competition?

F. Application of Rule Changes

NGSO FSS systems and system proposals currently have a variety of Commission approval statuses, including pending applications for new systems and authorizations for systems that were filed for in a previous processing round. Because of the large investments already made and planned for these novel and ambitious systems, we seek comment on whether to apply all, or some, of the rule changes adopted in this proceeding, including changes to the good-faith coordination requirement, only to new license applications, license modification applications, application amendments, and market access petitions filed after the new rules go into effect. Maintaining the expectations of current licensees, market access recipients, applicants, and market access petitioners may serve the public interest by providing regulatory stability upon which these systems may continue to develop. However, we invite comment on whether applying rule changes to existing grantees or pending applicants would advance competition and encourage new entry into the market. If we did apply new rules to existing grants or pending applications, should we allow the grantees and applicants a period of time to request modification of their authorizations or to amend their applications before the new rule changes take effect? To the extent that we apply the revised rules to existing grants or pending applications, we seek comment on the costs and benefits of applying the rule changes to existing grantees or pending applicants that are part of already-closed processing rounds. How would this affect expectations of existing grantees or applicants who have filed by specific deadlines to gain entry into a particular processing round? If we decide not to apply new rules to existing grantees, what impact, if any, would that have on existing grant conditions already incorporated into NGSO FSS system authorizations, including those grants conditioned on compliance with rules or policies adopted by the Commission in the future?

G. Digital Equity and Inclusion

Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

IV. Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), 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 policies and rules proposed in this NPRM. We request written public comments on this IRFA. Commenters must identify their comments as responses to the IRFA and must file the comments on or before the dates indicated in the **DATES** section above and in accordance with the comment filing requirements. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

In recent years, the Commission has received an unprecedented number of applications for NGSO space station licenses, including for NGSO FSS systems. Traveling closer to the Earth than a traditional GSO satellite, low- and medium-orbit NGSO FSS satellite constellations are capable of providing broadband services to industry, enterprise, and residential customers with lower latency and wider coverage than was previously available via satellite. This rulemaking will continue to facilitate the deployment of NGSO FSS systems capable of providing broadband and other services on a global basis, and will promote competition among NGSO FSS system proponents, including the market entry of new competitors.

The notice of proposed rulemaking (NPRM) seeks comment on proposed revisions to the Commission's rules governing the treatment of NGSO FSS systems filed in different processing rounds. In particular, the NPRM proposes that the Commission's existing spectrum sharing mechanism for NGSO FSS systems will be limited to those systems approved in the same processing round. The NPRM also proposes to adopt a rule providing that later-round NGSO FSS systems will have to protect earlier-round systems, and invites comment on how to define such protection. In addition, the NPRM seeks comment on whether to sunset, after a period of time, the interference protection afforded to an NGSO FSS system because of its processing round status.

B. Legal Basis

The proposed action is authorized under sections 4(i), 7(a), 303, 308(b), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303, 308(b), 316.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, 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 Small Business Administration (SBA).

Satellite Telecommunications. This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The NPRM invites comment on potential changes to the spectrum sharing requirements among NGSO FSS satellite systems. Because of the costs involved in developing and deploying an NGSO FSS satellite constellation, we anticipate that few NGSO FSS operators affected by this rulemaking would qualify under the definition of ''small entity.''

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules 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.''

The NPRM invites comment on different means to protect NGSO FSS systems licensed through the Commission's processing round framework, including, as one option, whether those NGSO FSS systems authorized through a later processing round should be required to submit technical demonstrations that they will not interfere with NGSO FSS systems authorized through an earlier processing round. The NPRM invites specific comment on the burdens associated with such submissions, and also seeks comment on alternative means of protection of NGSO FSS systems.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

V. Ordering Clauses

Accordingly, *it is ordered*, pursuant to 47 CFR 1.407, that the petition for rulemaking filed by Space Exploration Holdings, LLC, Revision of Section 25.261 of the Commission's Rules to Increase Certainty in Spectrum Sharing Obligations Among Non-Geostationary Orbit Fixed-Satellite Service Systems, RM–11855, *is granted in part and deferred in part*, the opposition filed by WorldVu Satellites Limited *is denied in part and deferred in part*, and the opposition filed by Theia Holdings A, Inc. *is deferred*.

It is further ordered, pursuant to 47 U.S.C. 154(i), 157(a), 303, 308(b), 316, that this Notice of Proposed Rulemaking *is adopted.*

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center will send a copy of this Order and Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 47 CFR Part 25

Administrative practice and procedure, Satellites.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 2. Amend § 25.261 by revising paragraph (b), revising the first sentence in paragraph (c)(1), and adding paragraph (d) to read as follows:

§ 25.261 Sharing among NGSO FSS space stations.

* * * * *

(b) *Coordination.* NGSO FSS licensees and market access recipients must coordinate in good faith the use of commonly authorized frequencies regardless of their processing round status, unless otherwise provided by the Commission.

(c) * * *

(1) Each of n (number of) satellite networks involved that were licensed or granted market access through the same processing round must select 1/n of the assigned spectrum available in each of these frequency bands. * * *

* * * * *

(d) *Protection of earlier-round systems.* Prior to commencing operations, an NGSO FSS licensee or market access recipient must either certify that it has completed a coordination agreement with any operational NGSO FSS system licensed or granted U.S. market access in an earlier processing round, or demonstrate that it will not cause harmful interference to any such system with which coordination has not been completed.

[FR Doc. 2022–01204 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FRS 65285; MB Docket No. 21–502; DA 21–1635]

Radio Broadcasting Services; (Snowflake, Arizona; Millerton, Oklahoma; Powers, Oregon; Mount Enterprise and Paint Rock, Texas; Hardwick, Vermont; and Meeteetse, Wyoming)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division, on its own motion, proposes the deletion of seven vacant allotments in various communities in Arizona, Oklahoma, Oregon, Texas, Vermont and Wyoming. We tentatively conclude that it is in the public interest to delete seven vacant allotments that have been offered in two FM auctions. No bids were entered for these allotments in the recently completed FM Auction 109. These permits are now considered unsold, and the allotments remain vacant. Deletion of these allotments may create other opportunities in nearby communities for new FM allotments or upgrades of existing stations. Therefore, we believe that the proposed deletion of these vacant allotments may promote a more effective and efficient use of the FM broadcast spectrum.

DATES: Comments must be filed on or before February 14, 2022 and reply comments on or before March 1, 2022.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2054.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 21–502, adopted December 23, 2021, and released December 23, 2021. The full text of this Commission decision is available online at *https://apps.fcc.gov/ecfs/.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 to read as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. In § 73.202(b), amend the Table of FM Allotments, by:

■ a. Revising the entry for ''Snowflake'' under Arizona;

■ b. Revising the entry for ''Millerton'' under Oklahoma;

■ c. Revising the entry for ''Powers'' under Oregon;

■ d. Revising the entries for ''Mount Enterprise'' and ''Paint Rock'' under Texas;

■ e. Revising the entry for ''Hardwick'' under Vermont;

■ f. Revising the entry for ''Meeteetse'' under Wyoming.

The revisions read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) *Table of FM Allotments.*

TABLE 1 TO PARAGRAPH (b)

U.S. States	Channel No.
Arizona	
* * * * *	
Snowflake.	

TABLE 1 TO PARAGRAPH (b)—Continued

U.S. States	Channel No.
* * * * *	
Oklahoma	
* * * * *	
Millerton.	
* * * * *	
Oregon	
* * * * *	
Powers.	
* * * * *	
Texas	
* * * * *	
Mount Enterprise.	
* * * * *	
Paint Rock.	
* * * * *	
Vermont	
* * * * *	
Hardwick.	
* * * * *	
Wyoming	
* * * * *	
Meeteetse.	
* * * * *	

* * * * *

[FR Doc. 2022–00825 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 21–1587; MB Docket No. 21–483; RM–11913]

Radio Broadcasting Services; Hamilton, Goldthwaite, and San Saba, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking and Order to Show Cause seeks comment on a proposal requested by B Plus Broadcasting, LLC (B Plus), to create a new FM allotment for a Class A station on Channel 263 at Hamilton, Texas. It also orders S Content Marketing, LLC (S Content), to show why the license of KNUZ(FM), San Saba, Texas, should not be modified to specify operation on Channel 291A in lieu of Channel 224A at San Saba, Texas.

DATES: Comments must be filed on or before February 7, 2022, and reply comments on or before February 22, 2022.

ADDRESSES: Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the following: Alan E. Brown, P.O. Box 2, Goldthwaite, TX 79844 (petitioner); and Allan G. Moskowitz, Esq., 10845 Tuckahoe Way, North Potomac, MD 20878 (counsel to the petitioner).

FOR FURTHER INFORMATION CONTACT: Nazifa Sawez, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MB Docket No. 21–483, adopted December 17, 2021, and released December 17, 2021. The full text of this document will be available for public inspection and copying via ECFS. The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/ndbedp.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The Notice of Proposed Rulemaking component of this document solicits comment on the proposed allotment of Channel 263A at Hamilton, Texas, because it could result in a second local service to that community as proposed by B Plus Broadcasting, LLC. A staff engineering analysis reveals that Channel 263A can be allotted to Hamilton in conformity with the FCC's rules at reference coordinates 31–39–48.1 NL and 98–21–29.4 WL.

The Order to Show Cause requires S Content to show why the license of KNUZ(FM), San Saba, Texas, should not be modified to specify operation on Channel 291A in lieu of Channel 224A at San Saba to accommodate the new FM station on Channel 263A at Hamilton and the substitution of Channel 224A in lieu of Channel 263A for KRNR(FM), Goldthwaite, Texas.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rules

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

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. In § 73.202(b), amend the Table of FM Allotments under Texas, by adding in alphabetical order an entry for ''Hamilton'' to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) *Table of FM Allotments.*

TABLE 1 TO PARAGRAPH (b)

U.S. States	Channel No.
Texas	
* * * * *	
Hamilton	263A
* * * * *	

* * * * *

[FR Doc. 2022–00826 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–13; RM–11914; DA 22–24; FR ID 67659]

Television Broadcasting Services Albany, New York

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by WNYT–TV, LLC (Petitioner), the licensee of WNYT, channel 12, Albany, New York. The Petitioner requests the substitution of channel 21 for channel 12 at in the Table of Allotments.

DATES: Comments must be filed on or before February 23, 2022 and reply comments on or before March 10, 2022.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: William LeBeau, Esq., Holland & Knight LLP, 800 17th Street NW, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: In support of its channel substitution request, the Petitioner states that WNYT has a long history of significant reception problems given the local terrain. According to the Petitioner, once the station began operating solely in digital on VHF channel 12, it received numerous complaints from viewers about the station's over-the-air signal, and in order to address these problems, the Petitioner applied for and received modification authorizations to increase WNYT's effective radiated power and tried other means to improve viewers' digital reception, including constructing two digital replacement translators. The proposal will result in a net gain in service to 289,588 persons within WNYT's predicted noise limited service contour, and while it will result in a loss population of 210 persons within the predicted contour, all of the population located within WNYT's original DTV channel 12 noise limited contour will continue to receive NBC service, except for 130 people.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 22–13; RM–11914; DA 22–24, adopted January 11, 2022, and released January 11, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

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

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See Sections 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 to read as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. In § 73.622(j), amend the Table of Allotments under New York, by revising the entry for ''Albany'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

(j) Table of TV Allotments.

Community	Channel No.
* * * * *	
NEW YORK	
* * * * *	
Albany	8, 21, 24.
* * * * *	

* * * * *

[FR Doc. 2022–01002 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2022–0001]

RIN 2126–AC51

Fees for the Unified Carrier Registration Plan and Agreement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: FMCSA is proposing reductions in the annual registration fees States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2023 year and subsequent registration years. The proposed fees for the 2023 registration year would be reduced below the fees for 2022 by approximately 27 percent. The reduction in annual registration fees would be between $16 and $15,350 per entity, depending on the number of vehicles owned or operated by the affected entities.

DATES: Comments must be received on or before February 23, 2022.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2022–0001 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/FMCSA-2022-0001/document.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Riddle, Director, Office of Registration and Safety Information, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, *FMCSA-MCRS@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

FMCSA organizes this notice of proposed rulemaking (NPRM) as follows:

I. Public Participation and Request for Comments
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy Act
II. Executive Summary
A. Purpose and Summary of the Regulatory Action
B. Costs and Benefits
III. Abbreviations
IV. Legal Basis
V. Background
VI. Discussion of Proposed Rulemaking
VII. International Impacts
VIII. Section-by-Section Analysis
IX. Regulatory Analyses
A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
B. Congressional Review Act
C. Regulatory Flexibility Act (Small Entities)
D. Assistance for Small Entities
E. Unfunded Mandates Reform Act of 1995
F. Paperwork Reduction Act (Collection of Information)
G. E.O. 13132 (Federalism)
H. Privacy
I. E.O. 13175 (Indian Tribal Governments)
J. National Environmental Policy Act of 1969

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (FMCSA–2022–0001), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2022-0001/document,* click on this NPRM, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the 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 the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2022-0001X/document* and choose the document to review. To view comments, click this NPRM, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL 14—Federal Docket Management System (FDMS)), which can be reviewed at *www.transportation.gov/privacy.*

II. Executive Summary

A. Purpose and Summary of the Regulatory Action

The UCR Plan and the 41 States participating in the UCR Agreement establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors: 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA. Revenues collected are allocated to the participating States and the UCR Plan.

In accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), fee adjustments must be requested by the UCR Plan when annual revenues exceed the maximum allowed. Also, if there are excess funds after payments to the States and for administrative costs, they are retained in the UCR Plan's depository, and subsequent fees must be reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct provisions are the basis for the two elements of the adjustment proposed in this rule. This NPRM proposes to reduce the annual registration fees established pursuant to the UCR Agreement for 2023 and subsequent years.

The UCR Board has estimated future period collections using an average of the collections of the past 3 closed years. It also considered that there has been no change to the administrative authorized allowance since 2020 and recommended a modest increase in the allowance.

Considering all of this, the UCR Board recommended that FMCSA adopt the fees listed below.

2022 VS. 2023 FEE RECOMMENDATION

Number of power units	0–2	3–5	6–20	21–100	101–1000	1,001 and above
2022 Fee (Current)	$59	$176	$351	$1,224	$5,835	$56,977
2023 Fee (Recommended)	$43	$129	$256	$894	$4,263	$41,627
Change	($16)	($47)	($95)	($330)	($1,572)	($15,350)

B. Costs and Benefits

The changes proposed in this NPRM would reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier or other entity would realize a reduced monetary burden, fees are considered by the Office of Management and Budget (OMB) Circular A–4, Regulatory Analysis as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. Therefore, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

III. Abbreviations

CAA Clean Air Act
CBI Confidential Business Information
CE Categorical Exclusion
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
OMB Office of Management and Budget
PIA Privacy Impact Assessment
RFA Regulatory Flexibility Act
SBA Small Business Association
SBREFA Small Business Regulatory Enforcement Fairness Act
Secretary Secretary of Transportation
UCR Unified Carrier Registration
UCR Agreement Unified Carrier Registration Agreement
UCR Plan Unified Carrier Registration Plan

IV. Legal Basis for the Rulemaking

This rule proposes to adjust the annual registration fees required by the UCR Agreement established by 49 U.S.C. 14504a. The requested fee adjustments are required by 49 U.S.C. 14504a because, for registration year 2022, the total revenues collected are expected to exceed the maximum annual revenue entitlements of $107.78 million distributed to the 41 participating States plus the amount established for the administrative costs associated with the UCR Plan and Agreement. The UCR Plan submitted the requested adjustments in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which requires the UCR Plan to request an adjustment by the Secretary when the annual revenues exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds from previous registration years held by the UCR Plan in its depository, after distribution to the States and for payment of administrative costs, shall be retained ''and the fees charged . . . shall be reduced by the Secretary accordingly.''

The UCR Plan is also requesting approval of a revised total revenue to be collected because of an adjustment in the amount for costs of administering the UCR Agreement. No changes in the revenue allocations to the participating States have been recommended by the UCR Plan. The revised total revenue must be approved in accordance with 49 U.S.C. 14504a(d)(7).

The Secretary also has broad rulemaking authority in 49 U.S.C. 13301(a) to carry out 49 U.S.C. 14504a, which is part of 49 U.S.C. subtitle IV, part B. Authority to administer these statutory provisions has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(2) and (7).

V. Background

FMCSA issued a final rule in early 2020 establishing the current level of UCR registration fees. 85 FR 8192 (Feb. 13, 2020). The 2020 rule reflected reductions recommended by the UCR Plan in the annual registration fees the States collected from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the registration years beginning in 2020. This level of fees has remained in effect for registration years since 2020. The UCR Plan has recommended that these fees remain in effect during 2022 and has recommended a significant reduction to be effective for registration year 2023.

The UCR Plan's latest recommendation includes an increase in the amount of the administrative cost allowance from $4 million to $4.25 million for the 2023 registration year. The increase of $250,000 recommended by the UCR Plan was based on estimates of future administrative cost allowances needed to operate the UCR Plan and Agreement. No changes in the State revenue entitlements are recommended, and the entitlement figures for 2023 for the 41 participating States are the same as those previously approved for the years 2010 through 2022. Therefore, for registration year 2023 and subsequent registration years, the UCR Plan recommends total revenue to be collected of $112,027,060 (rounded to the nearest dollar). FMCSA proposes to approve this recommendation for the total revenue to be collected by the UCR Plan, as shown in the following table.

STATE UCR REVENUE ENTITLEMENTS AND FINAL 2023 TOTAL REVENUE TARGET

State	Total 2023 UCR revenue entitlements
Alabama	$2,939,964.00
Arkansas	1,817,360.00
California	2,131,710.00
Colorado	1,801,615.00
Connecticut	3,129,840.00
Georgia	2,660,060.00
Idaho	547,696.68
Illinois	3,516,993.00
Indiana	2,364,879.00
Iowa	474,742.00
Kansas	4,344,290.00
Kentucky	5,365,980.00
Louisiana	4,063,836.00
Maine	1,555,672.00
Massachusetts	2,282,887.00
Michigan	7,520,717.00
Minnesota	1,137,132.30
Missouri	2,342,000.00
Mississippi	4,322,100.00
Montana	1,049,063.00
Nebraska	741,974.00
New Hampshire	2,273,299.00
New Mexico	3,292,233.00
New York	4,414,538.00
North Carolina	372,007.00
North Dakota	2,010,434.00
Ohio	4,813,877.74
Oklahoma	2,457,796.00
Pennsylvania	4,945,527.00
Rhode Island	2,285,486.00
South Carolina	2,420,120.00
South Dakota	855,623.00
Tennessee	4,759,329.00
Texas	2,718,628.06
Utah	2,098,408.00
Virginia	4,852,865.00
Washington	2,467,971.00
West Virginia	1,431,727.03
Wisconsin	2,196,680.00
Sub-Total	106,777,059.81
Alaska	500,000.00
Delaware	500,000.00
Total State Revenue Entitlement	107,777,060.00

STATE UCR REVENUE ENTITLEMENTS AND FINAL 2023 TOTAL REVENUE TARGET—Continued

State	Total 2023 UCR revenue entitlements
Administrative Costs	4,250,000.00
Total Revenue Target	112,027,060.00

VI. Discussion of Proposed Rulemaking

On August 26, 2021, the UCR Plan Board of Directors sent a letter to the Secretary of the Department of Transportation (available in the docket for this rule), stating that the Board met on August 12, 2021, and voted to approve their ''2023 Fee Proposal'' plan and recommend that FMCSA adopt the fee reductions therein. The letter states the justification for reducing the fees, and the attachment explains how the adjustment was determined.

FMCSA has reviewed the formal recommendation from the UCR Plan and proposes to approve the recommended adjustment in the fees, including the adjustment in the allowance for costs necessary to continue administering the UCR Agreement and the UCR Plan. Overall, the UCR Plan and the Agency agree on the reduction of the current fees for 2023 and subsequent registration years, and that there would be no change in the revenue entitlements for the 41 participating States.

VII. International Impacts

Motor carriers and other entities involved in interstate and foreign transportation in the United States that do not have a principal office in the United States, are nonetheless subject to the fees for the UCR Plan. They are required to designate a participating State as a base State and pay the appropriate fees to that State (49 U.S.C. 14504a(a)(2)(B)(ii) and (f)(4)).

VIII. Section-by-Section Analysis

In this NPRM, FMCSA proposes that the provisions of 49 CFR 367.60 (which were adopted in the 2020 final rule) would be revised so that the fees in that section would apply to registration years 2020, 2021, and 2022 only. A new 49 CFR 367.70 would establish new reduced fees applicable beginning in registration year 2023. These fees would remain in effect for subsequent registration years after 2023 unless revised in the future.

FMCSA also proposes to remove 49 CFR 367.20, 367.30, 367.40, and 367.50. These sections established fees applicable for registration years from 2007 to and including 2019. The UCR Plan is no longer collecting fees for those registration years and these sections should be removed to avoid any uncertainty about the applicable fees.

IX. Regulatory Analyses

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this notice of proposed rulemaking under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs (OIRA) within OMB determined that this notice of proposed rulemaking is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, OMB has not reviewed it under these Orders.

The changes proposed by this rule would reduce the registration fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier would realize a reduced burden, fees are considered by OMB Circular A–4, Regulatory Analysis as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. By definition, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

This rule would establish reductions in the annual registration fees for the UCR Plan and Agreement. The entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Because the State UCR revenue entitlements would remain unchanged, the participating States would not be impacted by this rule. The primary impact of this rule would be a reduction in fees paid by individual motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The recommended reduction from the current 2020 registration year fees (approved by the Board on August 12, 2021) would be between $16 and $15,350 per entity, depending on the number of vehicles owned or operated by the affected entities.

B. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801–808), OIRA designated this rule as not a ''major rule.'' [1]

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA),[2] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and 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. 5 U.S.C. 601(6). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

This proposed rule would directly affect the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Under the standards of the RFA, as amended by the SBREFA, the participating States are not small entities. States are not considered small entities because they do not meet the definition of a small entity in section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under section 601(5) of the RFA, both because State government is not included among the various levels of government listed in section 601(5), and because, even if this were the case, no State or the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under section 601(5) of the RFA.

The Small Business Administration's (SBA) size standard for a small entity

[1] A ''major rule'' means any rule that the Office of Management and Budget finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (49 CFR 389.3).

[2] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

(13 CFR 121.201) differs by industry code. The entities affected by this rule fall into many different industry codes. In order to determine if this rule would have an impact on a significant number of small entities, FMCSA examined the 2017 Economic Census data [3] for two different industries, truck transportation (Subsector 484) and transit and ground transportation (Subsector 485).

According to the 2017 Economic Census, approximately 99.4 percent of truck transportation firms, and approximately 99.2 percent of transit and ground transportation firms, had annual revenue less than the SBA's revenue thresholds of $30 million and $16.5 million, respectively, to be defined as a small entity. Therefore, FMCSA has determined that this rule would impact a substantial number of small entities. However, FMCSA has determined that this rule would not have a significant impact on the affected entities. The effect of this rule would be to reduce the annual registration fee motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay. The reduction will range from $16 to $15,350 per entity, depending on the number of vehicles owned and/or operated by the affected entities.

Consequently, I certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the SBREFA small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the SBA's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see *https://www.sba.gov/about-sba/oversight-advocacy/office-national-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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

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 $170 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2020 levels) or more in any 1 year. Although this proposed rule would not result in such an expenditure, the Agency discusses the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

FMCSA has determined that this rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. Privacy

The Consolidated Appropriations Act, 2005,[4] requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This NPRM would not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,[5] requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA has been submitted to FMCSA's Privacy Officer for review and preliminary adjudication and to DOT's Privacy Officer for review and final adjudication.

I. E.O. 13175 (Indian Tribal Governments)

This rule does not have Tribal implications under E.O. 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.

J. National Environmental Policy Act of 1969

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraph 6.h. The Categorical Exclusion (CE) in paragraph 6.h. covers regulations and actions taken pursuant to regulation implementing procedures to collect fees that will be charged for motor carrier registrations. The proposed requirements in this rule are covered by this CE and do not have any effect on the quality of the environment.

List of Subjects in 49 CFR Part 367

Intergovernmental relations, Motor carriers, Brokers, Freight Forwarders.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter III, part 367 to read as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 1. The authority citation for part 367 continues to read as follows:

Authority: 49 U.S.C. 13301, 14504a; and 49 CFR 1.87.

■ 2. Remove §§ 367.20, 367.30, 367.40 and 367.50.

[3] U.S. Census Bureau, *2017 US Economic Census.* Available at: *https://data.census.gov/cedsci/table?q=United%20States&t=Value%20of%20Sales,%20Receipts,%20Revenue,%20or%20Shipments&n=484&tid=ECNSIZE2017.EC1700SIZEREVEST&hidePreview=true* (accessed Dec. 28, 2021).

[4] Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

[5] Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

■ 3. Revise § 367.60 to read as follows:

§ 367.60 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2020 and ending in 2022.

TABLE 1 TO § 367.60—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEARS BEGINNING IN 2020 AND ENDING IN 2022

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$59	$59
B2	3–5	176	
B3	6–20	351	
B4	21–100	1,224	
B5	101–1,000	5,835	
B6	1,001 and above	56,977	

■ 4. Add new § 367.70 to read as follows:

§ 367.70 Fees under the Unified Carrier Registration Plan and Agreement for Registration Years Beginning in 2023 and Each Subsequent Registration Year Thereafter.

TABLE 1 TO § 367.70—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEARS BEGINNING IN 2023 AND EACH SUBSEQUENT REGISTRATION YEAR THEREAFTER

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$43	$43
B2	3–5	129	
B3	6–20	256	
B4	21–100	894	
B5	101–1,000	4,263	
B6	1,001 and above	41,627	

Issued under authority delegated in 49 CFR 1.87.

Meera Joshi,

Deputy Administrator.

[FR Doc. 2022–01022 Filed 1–21–22; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 87, No. 15

Monday, January 24, 2022

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

Farm Service Agency

[Docket ID FSA–2022–0001]

Information Collection; Measurement Service Records

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension of a currently approved information collection associated with the Measurement Service Records.

DATES: We will consider comments that we receive by March 25, 2022.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments, identified by Docket ID: FSA–2022–0001, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail, hand delivery, or courier:* Amy Mitchell, Common Provisions Section, Safety Net Division, USDA, FSA, Farm Programs, 1400 Independence Avenue SW, Mail Stop 0517, Washington, DC 20250–0517.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Amy Mitchell at the above address.

FOR FURTHER INFORMATION CONTACT: Amy Mitchell, telephone: (202) 720–8954; email: *amy.mitchell@usda.gov.* Persons with disabilities who require alternative mean for communication should contact the USDA's TARGET Center at (202)720–2600 (Voice).

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Measurement Service Records.
OMB Control Number: 0560–0260.
Expiration Date: 05/31/2022.
Type of Request: Extension.
Abstract: When a producer requests a measurement of acreage or production from FSA, the producer uses the form FSA–409 (Measurement Service Record) to make the request, which requires a measurement service fee to be paid to FSA.

The form is manual. The types of measurement service being performed are currently at the Land (Office or Field) and Commodity Bin. Using the FSA–409 to make a request, the producer provides FSA: The farm serial number, program year, farm location, contact person, and type of service request (acreage or production). The measurement policies and procedures are located in 7 CFR part 718. FSA uses the collected information to fulfill producers' measurement request and to ensure that measurements are accurate.

A producer will use the form FSA–409 to request and receive certain measurement information from FSA pertaining to land and crops and such producer can provide such information to FSA at the time of applying for certain program benefits. The information includes, but is not limited to, measuring land and crop areas, quantities of farm-stored commodities, and appraising the yields of crops in the field. There are no changes to the burden hours since the last OMB submission.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Annual Burden: Public reporting burden for the collection of information is estimated to average 15 minutes per response.

Respondents: Producers.

Estimated Number of Respondents: 135,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual of Responses: 135,000.

Estimated Average Time per Response: 15 minutes (0.25).

Estimated Total Annual Burden Hours: 33,750 hours.

We are requesting comments on all aspects of this information collection to help us:

(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 collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate 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 where provided, will be made a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Zach Ducheneaux,

Administrator, Farm Service Agency.

[FR Doc. 2022–01191 Filed 1–21–22; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket Number FSIS–2021–0029]

2022 Rate Changes for the Basetime, Overtime, Holiday, Laboratory Services, and Export Application Fees

Correction

In notice document 2021–28300, appearing on pages 74063–74065 in the issue of Wednesday, December 29, 2021, make the following correction:

On page 74063, in the third column, the second entry in the second column of the table that reads ''2.60'', is corrected to read ''82.60''.

[FR Doc. C1–2021–28300 Filed 1–21–22; 8:45 am]

BILLING CODE 0099–10–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual debrief via Webex at 12:00 p.m. ET on Thursday, February 17, 2022, to discuss the February 15, 2022, web briefing on Legal Financial Obligations in the state.

DATES: The meeting will take place on Thursday, February 17, 2022, at 12:00 p.m. ET.

ADDRESSES:

Online Registration (Audio/Visual): https://tinyurl.com/4fu9n9w5.

Telephone (Audio Only): Dial 800–360–9505 USA Toll Free; Access code: 2761 972 1410.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, DFO, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *vmoreno@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, North Carolina Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above email or street address.

Agenda

I. Welcome & Roll Call
II. Panel Debrief
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: Friday, January 18, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–01212 Filed 1–21–22; 8:45 am]

BILLING CODE 6335–01–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; Household Pulse Survey

On November 29, 2021, the Department of Commerce received clearance from the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 to conduct Phase 3.2 of the Household Pulse Survey (OMB No. 0607–1013, Exp. 10/31/23). The Household Pulse Survey was designed to meet a need for timely information associated with household experiences during the Covid-19 pandemic. The Department is committed to ensuring that the data collected by the Household Pulse Survey continue to meet information needs as they may evolve over the course of the pandemic. This notice serves to inform of the Department's intent to request clearance from OMB to make some revisions to the Household Pulse Survey questionnaire. To ensure that the data collected by the Household Pulse Survey continue to meet information needs as they evolve over the course of the pandemic, the Census Bureau submits this Request for Revision to an Existing Collection for a revised Phase 3.4 questionnaire. Specifically, Phase 3.4 includes a new question on receipt/intention to receive a vaccine booster; modifications to questions relating to children's vaccinations that expand response options to include children's age categories; modified reference periods for school enrollment and spending questions; the removal of an educational catch-up question; and a reinstated question related to distance learning.

It is the Department's intention to commence data collection using the revised instrument on or about February 23, 2022. The Department 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. Public comments were previously sought on the Household Pulse Survey via the **Federal Register** on May 19, 2020, June 3, 2020, February 1, 2021, April 13, 2021, June 24, 2021, and again on October 26, 2021. This notice allows for an additional 30 days for public comments on the proposed revisions.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Household Pulse Survey.

OMB Control Number: 0607–1013.

Form Number(s): None.

Type of Request: Request for a Revision of a Currently Approved Collection.

Number of Respondents: 202,800.

Average Hours per Response: 20 minutes.

Burden Hours: 66,924.

Needs and Uses: Data produced by the Household Pulse Survey are designed to inform on a range of topics related to households' experiences during the Covid-19 pandemic. Topics to date have included employment, facility to telework, travel patterns, income loss, spending patterns, food and housing security, access to benefits, mental health and access to care, intent to receive the COVID–19 vaccine/booster, and post-secondary educational disruption. The requested revision, if approved by OMB, will remove selected items from the questions for which utility has declined and add questions based on information needs expressed via public comment and in consult with other Federal agencies. The overall burden change to the public will be insignificant.

The Household Pulse Survey was initially launched in April, 2020 as an experimental project (see *https://www.census.gov/data/experimental-data-products.html*) under emergency clearance from the Office of Management and Budget (OMB) initially granted April 19, 2020; regular

clearance was subsequently sought and approved by OMB on October 30, 2020 (OMB No. 0607–1013; Exp. 10/30/2023).

Affected Public: Households.

Frequency: Households will be selected once to participate in a 20-minute survey.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 8(b), 182 and 193.

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 0607–1013.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–01237 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[Docket Number: 220119–0024]

Incentives, Infrastructure, and Research and Development Needs To Support a Strong Domestic Semiconductor Industry

AGENCY: Department of Commerce.

ACTION: Notice; request for information.

SUMMARY: The Department of Commerce (Department), with the assistance of the National Institute of Standards and Technology (NIST), is seeking information in order to inform the planning and design of potential programs to: Incentivize investment in semiconductor manufacturing facilities and associated ecosystems; provide for shared infrastructure to accelerate semiconductor research, development, and prototyping; and support research related to advanced packaging and advanced metrology to ensure a robust domestic semiconductor industry. Responses to this Request for Information (RFI) will inform the planning of the Department of Commerce for the potential implementation of these programs.

DATES: Comments must be received by 5:00 p.m. Eastern time on March 25, 2022. Written comments in response to this RFI should be submitted in accordance with the instructions in the **ADDRESSES** and **SUPPLEMENTARY INFORMATION** sections below. Submissions received after that date may not be considered.

ADDRESSES:

For Comments

To respond to this RFI, please submit electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov* and enter DOC–2021–0010 in the search field,

2. Click the ''Comment Now!'' icon, complete the required fields, and

3. Enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered.

Comments containing references, studies, research, and other empirical data that are not widely published should include electronic copies of the referenced materials. Please do not submit additional materials.

All relevant comments received in response to the RFI will be made publicly available on *www.regulations.gov.* All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information. Do not submit confidential business information, or otherwise sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

For Public Meetings/Webcast

The Department may hold future workshops to explore in more detail questions raised in the RFI. Notice and details about any potential future workshop dates and registration deadlines, etc. will be announced at *www.nist.gov/semiconductors.*

FOR FURTHER INFORMATION CONTACT:

For questions about this Notice, contact: George Orji, in the NIST Program Coordination Office, at *george.orji@nist.gov,* (301) 975–3475.

Please direct media inquiries to Jennifer Huergo in the NIST Public Affairs Office at *jennifer.huergo@nist.gov,* (301) 975–6343.

SUPPLEMENTARY INFORMATION:

Background

Semiconductors are fundamental to nearly all modern industrial and national security activities, and they are essential building blocks of critical and emerging technologies, such as artificial intelligence, autonomous systems, next generation communications, and quantum computing.

The U.S. semiconductor industry has historically dominated many parts of the semiconductor supply chain, such as research and development (R&D), chip design, and manufacturing. Over the past several years, the U.S. position in the global semiconductor industry has faced numerous challenges. In 2019, the United States accounted for 11 percent of global semiconductor fabrication capacity, down from 13 percent in 2015 and continuing a long-term decline from around 40 percent in 1990. Much of the overseas semiconductor manufacturing capacity is in Taiwan (led by Taiwan Semiconductor Manufacturing Company), South Korea (led by Samsung), and, increasingly, China.[1]

Furthermore, the fragility of the current global semiconductor supply chain was put squarely on display in 2020. The industry faced significant disruptions as a result of the coronavirus pandemic, a fire affecting a major supplier in Japan, and a severe winter storm that disabled production in facilities in Texas for several days.[2] Together these events and other factors such as pandemic-induced shifts in consumer demand contributed to a global semiconductor shortage that affected multiple manufacturing sectors which rely on semiconductors as critical components for their finished products. Especially severely hit was the automotive industry, which saw plants idled for months.[3]

To strengthen the U.S. position in semiconductor R&D and manufacturing, Congress authorized a set of programs in Title XCIX (''Creating Helpful Incentives to Produce Semiconductors in America'') of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021 (Pub. L. 116–283). This comprehensive set of programs is intended to restore U.S. leadership in semiconductor manufacturing by providing incentives and encouraging investment to expand manufacturing

[1] *https://www.semiconductors.org/wp-content/uploads/2020/09/Government-Incentives-and-US-Competitiveness-in-Semiconductor-Manufacturing-Sep-2020.pdf.*

[2] *https://www.ept.ca/features/global-chip-shortage-a-timeline-of-unfortunate-events/.*

[3] *https://hbr.org/2021/02/why-were-in-the-midst-of-a-global-semiconductor-shortage.*

capacity for the most advanced semiconductor designs as well as those of more mature designs that are still in high demand, and would grow the research and innovation ecosystem for microelectronics and semiconductor R&D in the U.S., including the investments in the infrastructure necessary to better integrate advances in research into semiconductor manufacturing.

President Biden's American Jobs Plan [4] calls for at least $50 billion to fund this set of programs, and Congress is considering legislation with similar funding levels over the next 5 years.[5] If funded as proposed in the United States Innovation and Competitiveness Act (USICA) S.1260:

- $39B would be directed to incentivize the construction or modernization of facilities in the U.S. for semiconductor fabrication, assembly, testing, advanced packaging, or R&D; and
- Another $11.2B would support several R&D and infrastructure investments including the establishment of a National Semiconductor Technology Center (NSTC), investments in advanced packaging, the creation of a Manufacturing USA institute targeting semiconductors, and expansion of NIST's metrology R&D in support of semiconductor and microelectronics R&D.

Goals of This Request for Information

This RFI invites the public to inform the design and implementation of the set of potential Department of Commerce programs laid out in the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) (NDAA). Comments are invited from all interested parties, domestic or foreign, including semiconductor manufacturers; industries associated with or that support the semiconductor industry, such as materials providers, equipment suppliers, manufacturers, and designers; trade associations, educational institutions, and government entities; original equipment manufacturers; semiconductor buyers; semiconductor industry investors; and any other stakeholders.

The Department of Commerce seeks input on the potential set of programs in general and the following topics specifically:

- Semiconductor Financial Assistance Program—The incentive program, under Section 9902 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) (NDAA), should it be funded by Congress, will be competitively awarded to private entities, consortia of private entities, or public-private consortia to incentivize the establishment, expansion, or modernization of semiconductor manufacturing facilities and supporting infrastructure. Funds will target production of leading-edge and mature logic chips, analog chips essential to critical industries and defense needs, and memory chips.
- National Semiconductor Technology Center—Under Section 9906 (c) of the NDAA, the National Semiconductor Technology Center (NSTC) is authorized to conduct advanced semiconductor manufacturing R&D and prototyping; establish an investment fund; and promote and expand workforce training and development opportunities. As authorized, the Department currently envisions the NSTC as a hub of talent, knowledge, investment, equipment and toolsets that tackles Moore's Law transitions, research into new materials, architectures, processes, devices, and applications, and, most importantly, bridges the gap between R&D and commercialization. Should NSTC be funded by Congress, companies would be expected to co-invest and participate in developing their own intellectual property together with NSTC staff, and to collaborate with other companies, universities and Federal labs on pre-competitive technologies and designs.
- Advanced Packaging Manufacturing Program—Advanced packaging and heterogeneous integration present a significant opportunity for innovation, leading to better yields, lower costs, greater functionality, reuse of intellectual property blocks enabling accelerated design iterations and customization, and improved energy efficiency. With support, there is a unique opportunity for U.S.-based equipment suppliers and manufacturers to lead in this critical area.
- Workforce Development Needs of the Industry—The growth and sustainment of the Nation's semiconductor industry depends on a highly skilled workforce capable of meeting current and future needs of the public and private sectors.

The goal of this RFI is to gather input that will be utilized to develop resources and programs to protect and extend U.S. semiconductor technology leadership; secure the supply of chips for critical, commercial and non-commercial U.S. sectors; and promote the economic viability of U.S. industry in R&D, manufacturing, and other critical areas of the semiconductor value chain, should the Creating Helpful Incentives for the Production of Semiconductors (CHIPS) for America Act programs be funded by Congress.

Public Meeting

The Department may hold future workshops to explore in more detail questions raised in the RFI. Notice and details about any potential future workshop dates and registration deadlines will be announced at *www.nist.gov/semiconductors.*

Details About Responses to This Request for Information

When addressing the topics below, commenters may address the practices of their organization or a group of organizations with which they are familiar. If desired, commenters may provide information about the type, size, and location of the organization(s). Provision of such information is optional and will not affect the Department's full consideration of the comment.

All relevant comments received in response to the RFI will be made publicly available on *www.regulations.gov.* Comments containing references, studies, research, and other empirical data that are not widely published should include electronic copies of the referenced materials. All submissions, including attachments and other supporting materials, will become part of the public record and will be subject to public disclosure. Personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Do not submit confidential business information, or otherwise sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

Specific Requests for Information

The following statements and questions cover the major topic areas about which the Department seeks comment. They are not intended to limit the topics that may be addressed. Responses may include any topic believed to inform U.S. Government efforts in developing recommendations for supporting the growth and sustainment of a robust domestic semiconductor manufacturing sector to meet the current and future needs of the public and private sectors, regardless of whether the topic is included in this document.

[4] *https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/.*

[5] S. 1260 Section 1002 (A) 2 (i) through (v).

Respondents are encouraged to respond to any or all of the following questions and topic areas, and may address related topics. Please identify the questions or topic areas each of your comments addresses. Responses may include estimates. Please indicate where the response is an estimate. Respondents may organize their submissions in response to this RFI in any manner.

All relevant responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this RFI will be considered.

The Department is requesting information related to the following topics:

Semiconductor Financial Assistance Program

1. The term ''semiconductor'' is not specifically defined in Section 9902 of the NDAA; rather, the legislation leaves it to the Secretary of Commerce to define. What factors do you consider important in developing a definition of ''semiconductor'' for purposes of a semiconductor manufacturing incentives program?

2. Section 9902 permits a ''consortium'' of public and private entities to apply for funding. What factors would public and private entities consider determining whether to apply for funding as part of consortium? How would private entities determine whether to work with a public entity as part of a consortium? How would a private entity consider working with other private entities (such as customers, equipment manufacturers, or capital providers) as part of a consortium?

3. Based on the criteria outlined in Section 9902 of the NDAA, what types of facilities, equipment, and other capacity aligned with the manufacture of semiconductors do you see as being most critical to the interests of the United States?

4. Based on the criteria outlined in Section 9902 of the NDAA, what do you see as presenting the biggest challenges for an organization to develop an application for funding as part of a consortium, and how long do you estimate it would take for an organization to prepare the required materials?

5. Subject to the criteria and eligibility requirements outlined in Section 9902 of the NDAA, what other factors should the Secretary consider as important when reviewing applications for Federal financial assistance?

6. Section 9902 defines a covered entity to include, among other things public-private consortia, which could include partnerships between semiconductor firms and customers, suppliers, investors, state and local governments, federally funded research and development centers (FFRDCs), and other entities. How can Section 9902 incentives be designed and deployed to encourage additional and new private capital investment in the semiconductor ecosystem? What can be learned from other technology infrastructure development programs that use such partnerships (*e.g.,* data center facilities or communications infrastructure) that may be applicable to semiconductor facilities?

7. How can federal financial assistance, consortia, or public-private partnerships be structured to maximize the initial scale of projects and to ensure ongoing reinvestment in project expansions, tool upgrades, and productivity improvements for the projects to remain economically viable and competitive over time? What opportunities exist for manufacturers to partner with private capital providers or use project financing to maximize the impact of the Federal financial assistance awards to achieve these objectives?

8. How can Federal funds incentivize the creation of a broad semiconductor ecosystem that includes producers of semiconductor manufacturing equipment and other upstream suppliers? What are the largest supply imbalances with respect to manufacturing equipment, tools, materials, and chemicals that need to be addressed by U.S. investment?

9. How can the program ensure that semiconductor startups and small and midsized companies have access to commercial fabrication, assembly, testing and packaging facilities and associated technical expertise, including intellectual property products such as ''Process Design Kits''?

10. Under the law, the Secretary may consider whether a covered entity includes a small business concern as defined under Section 3 of the Small Business Act (15 U.S.C. 632). Would it be beneficial for the Department to encourage large entities to partner with medium and small business suppliers?

11. Section 9902 requires a covered entity to make commitments to invest in workers and communities, including through training and education benefits and programs to expand employment opportunity for economically disadvantaged individuals. What constitutes a baseline commitment to worker training in the semiconductor industry and what other workforce investments should be considered? Are there international best practices or cooperation upon which your company finds beneficial? What other community investments should be considered beyond worker training and employment opportunities? How can worker training, other workforce commitments, and other community commitments be maximized and how should program participants be held accountable to their commitments? What types of programs exist, or could be expanded, to improve access for economically disadvantaged individuals to these workforce and community commitments and opportunities?

12. Section 9902 requires a covered entity to have secured commitments from regional educational and training entities and institutions of higher learning to provide workforce training to be eligible for funding. Looking at the semiconductor sector broadly, what are the greatest workforce development needs, and how can Federal financial assistance meet those needs? What specific types of workforce training programs would be the most beneficial to companies in these sectors? What existing workforce training programs have proven effective and should be expanded, including international exchanges or best practices? How could a program best ensure that workforce training and development meet critical national needs?

13. What is the industry's environmental footprint in terms of its land and resource use, air quality and water quality impact, hazardous or other special-handling material needs, and greenhouse gas emissions impact? What is the industry currently planning or implementing on these dimensions and how will the environmental footprint likely change over the next decade as a result? What effect will semiconductor chip customers' ''net zero'' announcements or other related incentives have on the industry's environmental footprint? What opportunities exist for the industry to move to a smaller and more sustainable footprint, and how can such opportunities be used to create a stronger domestic market for chips produced with a smaller footprint?

National Semiconductor Technology Center

1. Based on the functions outlined in section 9906(c) of the NDAA the Department's current vision of the NSTC is as a hub (or multiple hubs) of talent, knowledge, investment, equipment, and toolsets that tackles Moore's Law transitions, post-CMOS research into new materials, architectures, processes, devices, and applications, and that bridges the gap

between R&D and commercialization. What attributes are most important for the NSTC to possess or provide to the community (*e.g.,* ease of access, a broad suite of leading edge tools managed as central facility, a collaborative research environment)? What key factors are critical for the NSTC to address the current gaps in the semiconductor R&D ecosystem?

2. As authorized, the NSTC would have to be able to work with a wide range of research groups from industry, academia, and government, some of whom will be contributing valuable intellectual property. What approaches to intellectual property should be in place to protect the foundational contributions of members while enabling maximum collaboration and innovation amongst the research community supported by NSTC? What IP issues create unique challenges for middle- and late-stage prototyping collaborations versus early-stage research, design and proof-of-concept collaborations?

3. The federal government has several programs that support microelectronics and associated R&D across many agencies, federal labs, university labs, corporate labs, and other for-profit and nonprofit entities. What existing domestic R&D activities, assets, intellectual property, knowledge and expertise should be incorporated or otherwise connected to the NSTC, and are any international in nature? How should the NSTC interface with federal labs, university labs, corporate labs and other existing institutions of R&D and prototyping to ensure that R&D projects are supported throughout the technology maturation process so that public research funds are able to improve R&D productivity and attract additional private and venture investment?

4. How should the NSTC connect to National Network for Semiconductor R&D, authorized by Sec. 9903 of the FY 2021 NDAA? What considerations should be given to ensure strong integration between the two efforts? Should there be overlap in the technology readiness levels served by each program?

5. How should the NSTC ensure that it can identify and invest in what comes next after the first wave of needs are identified in the initial years? To what extent does the semiconductor ecosystem need a long-term roadmap of application requirements, technical needs, and gaps in materials, tooling and equipment, and process capabilities in order to guide future R&D investments? How can the NSTC's investments best support an open roadmap of this type, and how should the NSTC interface with other governments or allied international R&D programs, such as those established under Section 9905 of the FY2021 NDAA, to enable such a roadmap? What existing technology forums, roadmaps, or other initiatives should be incorporated into such efforts?

6. The NSTC is envisioned as a public-private partnership. What are the most suitable models of public-private partnership for the R&D and prototyping gaps that the NSTC is envisioned to address? What are the roles of the public participants and the private-sector participants in this partnership, including any international participants? How should governance structures, program objectives, investment criteria, and oversight and accountability requirements be structured to maximize the transformative potential of the NSTC in the US R&D ecosystem?

7. What operational and organizational characteristics, business processes, and practices will be important in ensuring that the resources of the NSTC are broadly accessible and available to the broader U.S. semiconductor R&D community including both small and larger, more established entities? How can the NSTC ensure that smaller and medium-sized companies and startups have access to facilities, expertise, and intellectual property that public funds support?

8. For those who currently participate or have participated in a ''research consortium'' (either domestic or international) made up of public and private partners, what are the important lessons learned or best practices that the NSTC should follow?

9. What attributes or capabilities of the NSTC would make it attractive and beneficial for companies, universities, and other agencies to want to send employees for assignments at the NSTC? What types of research and training opportunities should be made available at the NSTC for students and early career staff?

10. For organizations that currently utilize an external semiconductor ''fab'' as part of their R&D efforts, what services or processes are currently missing in the U.S. ecosystem that the NSTC should provide? Are there specific toolsets that the NSTC should own and operate or provide access to?

11. As authorized, the NSTC could establish an investment fund, in partnership with the private sector, to support startups and collaborations between startups, academia, established companies, and new ventures, with the goal of commercializing innovations that contribute to the domestic semiconductor ecosystem, including advanced metrology and characterization for leading-edge manufacturing processes, and for security and supply chain verification. How should this investment fund be structured, and what should be the roles of the public and private sectors in capitalizing, operating, and overseeing the fund and selecting its investment targets? Should the investment fund focus on early-stage investing, late-stage investing, or other stages of the process? How should the fund interact with existing private capital, both venture capital and established investment capital, and how can the fund sustain itself through its investments?

12. How should the NSTC's investments and focus overlap or complement the investments and capabilities of foreign institutions such as the Interuniversity Microelectronics Center (imec) in Belgium or the French Laboratoire d'électronique des technologies de l'information (CEA-Leti)?

Advanced Packaging Manufacturing Program

1. Please describe the application areas that are essential to long-term national leadership in semiconductor packaging, and, where possible, identify groupings where work must be closely coordinated in a program distributed in multiple hubs. Examples include but are not limited to:

- Analog device packaging
- Automotive
- Defense and aerospace
- Energy generation, transmission, conversion, and storage
- Harsh environments
- High performance computing, quantum computing, data centers
- Integrated photonics
- Integrated power electronics
- Internet of Things
- Mature packaging
- Medical, health & wearables
- MEMS and sensor electronics
- Mobile telecommunications
- Other?

2. Please describe the R&D core-competencies that are essential to national leadership in semiconductor packaging, and, where possible, identify groupings where work must be closely coordinated in a program distributed in multiple hubs. Examples include but are not limited to:

- Alternative materials to mitigate impact of supply chain disruptions
- Artificial intelligence for design of packaging
- Assembly and test

- Emerging materials
- Heterogeneous integration, chip stacking, and related technologies.
- High-density substrates
- Metrology
- Modeling and simulation
- Package-level design/codesign tools for electrical, thermal and mechanical design of complex packages
- Printed circuit boards
- Safety and security
- Software, firmware, new concepts in programming
- Standards
- Test solutions to assure yield in complex packages
- Thermal solutions
- Tooling
- Other?

3. A proposed National Advanced Packaging Manufacturing Program could be oriented to address multiple needs, including but not limited to prototyping, the provision of pilot lines, work force development, and supply chain development. Please describe the most critical needs on which the program should focus.

4. What attributes are the most important for a National Advanced Packaging Manufacturing Program to deliver? Examples include but are not limited to:

- ''Leading edge'' tools
- Characterization services
- Collaboration across multiple universities and multiple companies
- Development of education and workforce development infrastructure, including building a pipeline of skilled workers
- Easy to access facility, with different processes and tools
- Expert resident staff for custom development
- International participation
- Intellectual property protection for inventors
- Open access to intellectual property
- Post fabrication infrastructure
- Other?

5. What factors are critical to enable a National Advanced Packaging Manufacturing Program to provide a successful packaging R&D hub(s)?

6. Identify processes, equipment, measurement capabilities, environmental conditions, and training facilities that are most crucial for facilities provided by a National Advanced Packaging Manufacturing Program. How might organizations access such facilities?

7. How closely aligned should the capabilities enabled by a National Advanced Packaging Manufacturing Program be with those provided by the NSTC?

8. How should the National Advanced Packaging Manufacturing Program connect to National Network for Semiconductor R&D, authorized by Sec. 9903 of the FY 2021 NDAA? What considerations should be given to ensure strong integration between the two efforts? Should there be overlap in the technology readiness levels served by each program?

9. Describe anticipated needs in education and workforce development, including retraining and upskilling, in the semiconductor packaging area. How adequate is it currently, and what are future expectations of need? How should the workforce training pipeline be developed?

Semiconductor Workforce

1. What are the greatest occupational or skills shortages facing employers in the semiconductor sector? What are the consequences of those shortages with respect to the domestic operation of employers in the sector? Considering all aspects of building, equipping, and running semiconductor manufacturing and R&D facilities, what actions have been taken to address these shortages, how effective have they been, and what gaps remain?

2. What strategies have been most effective in addressing the shortages? Which states or countries have created the most effective strategies for different types of workforce needs to build, equip, and run semiconductor manufacturing and R&D facilities?

What industry or other credentials do employers use, or could use, to train and hire workers to fill needed positions? To what extent do employers in the semiconductor sector partner with government institutions such as local workforce boards, economic development organizations, or Manufacturing Extension Partnership centers, or international partners to establish training and/or skill certification programs? To what extent do employers in the semiconductor sector partner with other employers to create joint training programs?

3. What types of apprenticeship programs or existing partnerships involving workforce development issues in the semiconductor sector should the Department be aware of? What role can unionized labor play in worker training and workforce development, including for economically disadvantaged individuals?

4. What have been successful mechanisms used by employers in the semiconductor sector to work with local high schools, career and technical education programs, community colleges, or universities to recruit and train workers?

5. Are there any current or planned initiatives in the semiconductor sector to strengthen and expand the recruitment of women and underrepresented minorities, including promotion of such careers at K–12 levels?

6. To what extent, and for what occupations, do organizations in the semiconductor sector use the H1–B Program to fill positions?

7. Are there opportunities to design the semiconductor incentive program to ensure that worker skills shortages do not hinder companies from expanding operations?

Sreenivas Ramaswamy,

Senior Policy Advisor, Office of Policy and Strategic Planning, U.S. Department of Commerce.

[FR Doc. 2022–01305 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–20–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology (NIST)

Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Baldrige Executive Fellows Program

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 November 16, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Institute of Standards and Technology (NIST), Commerce.

Title: Baldrige Executive Fellows Program.

OMB Control Number: 0693–0076.

Form Number(s): None.

Type of Request: Regular, extension of current information collection.

Number of Respondents: 24 per year.

Average Hours per Response: 1 hour to gather materials.

Burden Hours: 24.

Needs and Uses: Collection needed to obtain information to select applicants for the Baldrige Executive Fellows Program, a professional development fellowship offered by the Baldrige Performance Excellence Program.

Affected Public: Business, health care, education, or other for-profit organizations; health care, education, and other non-profit organizations; and individuals.

Frequency: Annually.

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 0693–0076.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–01265 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 211115–0232]

Announcing Issuance of Federal Information Processing Standard (FIPS) 201–3, Personal Identity Verification (PIV) of Federal Employees and Contractors

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: This notice announces the Secretary of Commerce's approval of Federal Information Processing Standard (FIPS) Publication 201–3, Personal Identity Verification (PIV) of Federal Employees and Contractors. FIPS 201–3 includes clarifications to existing text, additional text in cases where there were ambiguities, adaptation to changes in the environment since the publication of FIPS 201–2, and specific changes requested by Federal agencies and implementers.

DATES: FIPS 201–3 is effective on January 24, 2022.

ADDRESSES: FIPS 201–3 is available electronically from the NIST website at: *https://csrc.nist.gov/publications/fips.* Comments that were received on the proposed changes will also be published electronically at *https://csrc.nist.gov/projects/piv* and at https://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Hildegard Ferraiolo, (301) 975–6972, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930, email: *hildegard.ferraiolo@nist.gov,* or Andrew Regenscheid, (301) 975–5155, *andrew.regenscheid@nist.gov.*

SUPPLEMENTARY INFORMATION: FIPS 201 establishes a standard for a Personal Identity Verification (PIV) system (Standard) that meets the control and security objectives of Homeland Security Presidential Directive-12 (HSPD–12). It is based on secure and reliable forms of identity credentials issued by the Federal Government to its employees and contractors. These credentials are used by mechanisms that authenticate individuals who require access to federally controlled facilities, information systems, and applications. This Standard addresses requirements for initial identity proofing, infrastructure to support interoperability of identity credentials, and accreditation of organizations issuing PIV credentials.

FIPS 201 was issued on 2005 (70 FR 17975) in response to HSPD–12. Subsequent revisions included FIPS 201–1, published in 2006 and FIPS 201–2 (version in effect), published in 2013 (78 FR 54626). In consideration of technological advancements over the last five years and specific requests for changes from United States Government (USG) stakeholders, NIST determined that a third revision of FIPS 201 was warranted. NIST received numerous change requests, some of which, after analysis and coordination with the Office of Management and Budget (OMB) and USG stakeholders, were incorporated in a proposed draft of FIPS 201–3. Other change requests incorporated in the draft resulted from the 2019 Business Requirements Meeting held at NIST. The meeting focused on business requirements of Federal departments and agencies. On November 3, 2020, a notice was published in the **Federal Register** (85 FR 69599), soliciting public comments on the draft FIPS 201–3. During the public comment period, a virtual public workshop was hosted by NIST on December 9, 2020.

The scope of changes reflected in FIPS 201–3 include the following:

- Alignment with current NIST technical guidelines on identity management, OMB policy guidelines, and changes in commercially-available technologies and services.
- Accommodation of additional types of authenticators through an expanded definition of Derived PIV credentials.
- Focus on the use of federation to facilitate interoperability and interagency trust.
- Addition of supervised remote identity proofing processes.
- Removal of previously deprecated Cardholder Unique Identifier (CHUID) authentication mechanism and deprecation of the symmetric card authentication key and visual authentication mechanisms (VIS).
- Support for secure messaging authentication mechanism (SM–AUTH).

Comments and questions regarding the draft were submitted by USG organizations, private sector organizations, and private individuals. NIST made several changes to the draft FIPS 201–3 based on the public comments received.

Many commenters asked for clarification of the text of the Standard and/or recommended editorial and/or formatting changes. Other commenters suggested modifying the requirements and asked questions concerning the implementation of the Standard. All of the suggestions, questions, and recommendations within the scope of this FIPS were carefully reviewed, and changes were made to the Standard, where appropriate. Some commenters submitted questions or raised issues that were related but outside the scope of this FIPS. Comments that were outside the scope of this FIPS, but that were within the scope of one of the related Special Publications, were deferred for later consideration in the context of the revisions to these Special Publications. The disposition of each comment that was received has been provided along with the comments at *https://csrc.nist.gov.*

The following is a summary and analysis of the comments received during the public comment period, and NIST's responses to them:

1. Comment: Some commenters inquired about the effective date of the Standard. Commenters also inquired about the implementation schedule associated with the changes introduced in the Standard, once the Standard is in effect.

Response: FIPS 201–3 will be effective immediately upon final publication, superseding FIPS 201–2. The effective date of new and updated features depends upon the release of revised NIST Special Publications or the release of new NIST Special Publications that will be developed following the publication of this Standard. The implementation schedule may be reflected in NIST's Special Publications or may be provided separately by OMB, as appropriate.

2. Comment: Multiple commenters asked for clarification of the terms PIV account and enrollment records.

Response: New terminology was introduced to define PIV identity account rather than PIV account. The PIV identity account is the cardholder's identity account for PIV credentials including derived PIV credentials. It includes stored or linked contents of enrollment records.

3. Comment: There were multiple commenters who asked for guidance on biometrics and their use in PIV lifecycle processes. The comments related to the type of the biometrics on cards and how long the biometrics were valid.

Response: FIPS 201–3 expands the use of optional biometric modalities (*e.g.,* iris) for issuance and maintenance. The Standard also defines the use of automated facial comparison algorithm as a biometric modality. The Standard maintains the 12-year maximum lifetime for biometrics since studies show that the biometric can be matched for that length of time.

4. Comment: Multiple commenters had concerns about the requirements for validating identity source documents and the requirements for REAL–ID driver's licenses.

Response: NIST emphasized that there are existing requirements to validate identity source documents to be genuine, authentic and unexpired. REAL–ID compliance requirements are clarified by referring to DHS's enforcement guidance.

5. Comment: Commenters had concerns about the supervised remote identity proofing processes introduced in the draft FIPS 201–3. Some commenters sought greater allowances for remote proofing such as unstaffed stations. Clarification was sought on the intended use of the process, requirements for staff at remote sites and the protections applied to remote stations.

Response: The Standard emphasizes the need for a staff to maintain the same level of assurance as in-person processes and to perform sensitive protection and maintenance activities at remote station.

6. Comment: Several commenters requested detailed instructions on reporting card termination.

Response: The Standard was updated to reflect termination in the card management system and in enrollment records.

7. Comment: Several commenters requested changes on the management of derived PIV credentials.

Response: The Standard clarifies processes and terms regarding the issuance or binding of derived PIV credentials to PIV identity accounts. The updates to the Standard include requirements and guidance on re-issuance and post-issuance management of Public Key Infrastructure (PKI) and non-PKI derived PIV credentials.

8. Comment: Some commenters asked that FIPS 201–3 include periodic privacy impact assessments on all PIV related systems.

Response: The Standard was updated to require periodic review of Privacy Impact Assessment.

9. Comment: Several commenters raised concerns related to the requirement for the PIV Card to enforce a blacklist of disallowed PINs. They did not feel the technology was available to enable cards to maintain the blacklist and to provide automated enforcement of selected PINs.

Response: The Standard removed the requirement due to the complexity of enforcing a blacklist by the PIV Card. Instead, the Standard specifies that the card holder be guided to select a strong PIN that is not easily guessable or commonly used.

10. Comment: Some commenters asked to maintain use of the magnetic stripe and not deprecate it in this version of the Standard.

Responses: NIST confirmed the deprecation of the magnetic stripe in this version of the Standard with potential removal in a future revision. Use of the magnetic stripe is still allowed during the deprecation phase but it should begin to be phased out.

11. Comment: Some commenters had concerns on the removal of Legacy PKI. Some commenters asked NIST to clarify how a cross-certified PKI will operate as agencies transition away from Legacy PKI implementations. Others asked that Legacy PKI use to remain in the Standard.

Response: The Standard was revised to allow departments and agencies that operate their own PKIs to issue digital signature and key management certificates according to agency-specified certificate policies as an alternative to the Federal PKI Common Policy Framework policies referenced by FIPS 201–3. To facilitate greater interoperability and consistency of issuance practices across agencies, the next revision of FIPS 201 will require the use of the specified FPKI policies.

12. Comment: Several commenters asked to either reconsider removal of the CHUID authentication mechanism or clarify the effective date.

Response: The CHUID authentication mechanism was deprecated in the prior revision of the Standard and is designated for removal in this revision. NIST concluded that removal of CHUID authentication is necessary at this time and will become effective when this version of the Standard is approved. OMB will provide additional implementation guidance as necessary.

13. Comment: A few commenters asked that SYM–CAK not be deprecated because it is still supported in some implementations.

Response: Even though SYM–CAK has been deprecated in this version, its use is not prohibited. However, support will be removed in the next revision of the Standard.

14. Comment: Commenters indicated that the Physical Assurance Level (PAL) concept for facility access was not consistent with assurance levels in NIST SP 800–63B.

Response: The Authenticator Assurance Levels (AAL) described in NIST SP 800–63B are specific to network-based authentication, not authentication for facility access. As a result, the final version of the Standard has removed the concept of PAL and disassociated assurance levels from NIST SP 800–63–B for facility access. Instead, authentication mechanisms are described independently from SP 800–63B for facility access.

15. Comment: Multiple commenters expressed concern that the description of assurance levels for logical access at local workstations was not consistent with the AALs defined in NIST SP 800–63B.

Response: The AALs described in NIST SP 800–63B are specified for network-based authentication, not local authentication to workstations. As such, the final version of the Standard describes assurance levels for logical access to local workstations independently from the SP 800–63B-defined AALs.

16. Comment: Several commenters asked for a more detailed description of the operation of Federated IdPs.

Response: IdP terminology was updated to better align with the rest of the document. Secure operation of IdPs will be covered by updates to SP 800–79.

17. Comment: A commenter asked that the use of stable identifiers be

included in FIPS 201–3 to support interoperability among federal agencies.

Response: The new Special Publication for Federation, SP 800–217, will describe processes for linking PIV identity accounts to relying party services in interoperable and extensible manners.

18. Comment: A commenter asked that there be a discussion about the direct use and the federated use of PIV credentials.

Response: The Standard explains both the direct and the federated use of PIV credentials. Of the two approaches, the Standard recommends the use of federation protocol as the primary means to accept and process PIV credentials from other agencies.

FIPS 201–3 is available electronically from the NIST website at: *https://csrc.nist.gov/publications/fips.*

Authority: 15 U.S.C. 278g–3; HSPD–12

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2022–01246 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–BI59]

Atlantic Highly Migratory Species; Supplement to Draft Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan; Meeting of the Atlantic Highly Migratory Species Advisory Panel

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

ACTION: Notice of availability of supplement to Draft Amendment 14; request for comments; notice of public webinars/conference calls.

SUMMARY: NMFS announces the availability of a supplement to Draft Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). Draft Amendment 14 is being undertaken to revise the mechanism or ''framework'' used in establishing quotas and related management measures for Atlantic shark fisheries. The revised framework would modify the procedures followed in establishing the acceptable biological catch (ABC) and annual catch limits (ACLs) for Atlantic sharks and the process used to account for carryover or underharvests of quotas. NMFS provides details for application of the tiered ABC control rule and reopens the comment period on the ABC control rule for Atlantic HMS shark fisheries and Amendment 14 will not make changes to the current quotas or other management measures. Any operational changes to HMS fishery management measures as a result of Amendment 14 will be considered in future rulemakings, as appropriate. NMFS will hold a half-day HMS Advisory Panel (AP) meeting on this topic in February 2022. The intent of the HMS AP meeting is to discuss the ABC control rule for Atlantic HMS shark fisheries and collect comments regarding the application of the tiered ABC control rule. The meeting is open to the public.

DATES: Written comments must be received by March 10, 2022. The AP meeting webinar and conference call will be held from 8 a.m. to 11 a.m. on Friday February 11, 2022. NMFS will hold one public hearing via webinar on supplement to Draft Amendment 14 will be held from 2 p.m. to 4 p.m. on February 23, 2022. For specific information see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Electronic copies of the Supplement to Draft Amendment 14 to the 2006 Consolidated HMS FMP may be obtained on the internet at: *https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management.*

You may submit comments on this document, identified by NOAA–NMFS–2019–0040, via the Federal e-Rulemaking Portal. Go to *www.regulations.gov,* enter NOAA–NMFS–2019–0040 into the search box, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The HMS AP meeting will be accessible via conference call and webinar. Conference call and webinar access information are available at: *https://www.fisheries.noaa.gov/event/february-2022-hms-advisory-panel-meeting.*

Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show the presentations via webinar and allow public comment during identified times on the agenda.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck (*Guy.DuBeck@noaa.gov*) or Karyl Brewster-Geisz (*Karyl.Brewster-Geisz@noaa.gov*) by email, or by phone at (301) 427–8503 for information on the supplement to Draft Amendment 14. Peter Cooper (*Peter.Cooper@noaa.gov*) at (301) 427–8503 for information regarding the HMS AP meeting.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries are managed under the dual authority of both the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635.

The Magnuson-Stevens Act requires that any FMP or FMP amendment be consistent with 10 National Standards (NS). Specifically, NS1 requires ''conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.'' In 2016, NMFS revised the NS1 guidelines to improve, streamline, and enhance their utility for managers and the public and to facilitate compliance with the requirements of the Magnuson-Stevens Act and provide management flexibility in doing so (81 FR 71858; October 18, 2016). The revisions addressed a range of issues, such as providing guidance on options to phase in changes to catch limits and carry over unused quota from one year to the next. On September 24, 2020, NMFS announced the availability of Draft Amendment 14 to the 2006 Consolidated HMS FMP (85 FR 60132) that considered revisions to the mechanism or ''framework'' used in establishing quotas and related management measures in Atlantic shark fisheries, considering the revised guidance. The current framework was established in Amendment 3 to the 2006 Consolidated HMS FMP. The revised framework would incorporate for potential use several optional fishery management tools in the revised NS1 guidelines.

In Draft Amendment 14, NMFS considered management options in order to revise the ABC framework that was established in Amendment 3. The management options considered included modifying the ABC control rule, revising processes for the implementation of an ABC, and modifying carry-over and phase-in provisions and multi-year overfishing status determinations. Full descriptions of the management options considered, including the preferred management options, are provided in Draft Amendment 14.

In Draft Amendment 14, NMFS preferred Management Option A3, which would adopt a general tiered approach to ABC control rules based on stocks that are categorized into tiers depending on the availability and quality of scientific data. NMFS did not provide details for its application, instead explaining that the shark ABC control rule would be similar to the South Atlantic Fishery Management Council's tiered ABC control rule for Amendment 29 to the snapper grouper fishery FMP.

During the comment period for Draft Amendment 14, the agency received ten written comments and a variety of verbal comments on preferred management options. Regarding the ABC control rule specifically, several commenters asked questions and requested additional information regarding Management Option A3. Based on these comments, NMFS has revised Management Option A3 and is providing further details in a supplement to Draft Amendment 14. These tiers apply to all sharks that have a stock status of healthy (*i.e.,* not subject to overfishing and not overfished), experiencing overfishing, or unknown. For shark stocks that are: (1) Under a rebuilding plan, (2) assessed (or could be assessed) by the scientific body of the International Commission for the Conservation of Atlantic Tunas (ICCAT), or (3)in the prohibited shark complex, different approaches would apply.

The supplemental document provides further details regarding preferred Management Option A3 on the ABC control rule. The remaining options published in Draft Amendment 14 are still being considered to establish the general framework through which specific management measures would later be developed and adopted. Any changes to the actual management and quotas of HMS-managed Atlantic shark stocks or management complexes would occur in future FMP amendments or regulatory actions, as appropriate.

NMFS is requesting public comment on the additional details provided in the supplement on preferred Management Option A3 and the other management options considered under the ABC control rule from Draft Amendment 14. Comments on any other topic (phase-in ABC control rule, ACL development, carry-over of underharvested ACL, or multi-year overfishing status determination criteria) within Draft Amendment 14 are not specifically being sought at this time. However, NOAA Fisheries would consider new comments if the additional details provided in this document affect how the public might comment on other issues in Draft Amendment 14. Previously-submitted comments should not be re-submitted during this comment period.

The Magnuson-Stevens Act requires the establishment of APs and requires NMFS to consult with and consider the comments and views of AP members during the preparation and implementation of FMPs or FMP amendments. 16 U.S.C. 1854(g)(1)(A)–(B). NMFS meets with the HMS AP approximately twice each year to consider potential alternatives for the conservation and management of Atlantic tunas, swordfish, billfish, and shark fisheries, consistent with the Magnuson-Stevens Act.

For the upcoming HMS AP meeting, we will focus on the supplement to Draft Amendment 14 and the ABC control rule for Atlantic HMS shark fisheries. Additional information and a copy of the draft agenda will be posted prior to the meeting at: *https://www.fisheries.noaa.gov/event/february-2022-hms-advisory-panel-meeting.*

Public Hearings

NMFS will take into consideration public comments on Draft Amendment 14 and the supplemental document before finalizing the preferred management options. The preferred management options may be altered or different management options may be adopted at the final Amendment stage, although any significant changes would require additional notice and opportunity for public comment. NMFS anticipates that Final Amendment 14 and its related documents would be available in 2022.

Comments on supplement to Draft Amendment 14 may be submitted via *www.regulations.gov,* and comments may also be submitted at the public hearing. NMFS solicits comments on this action by March 10, 2022. During the comment period, NMFS will hold one public hearing via webinar. Information on the webinar will be posted at: *https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management.* Requests for sign language interpretation or other auxiliary aids should be directed to Guy DuBeck at *guy.dubeck@noaa.gov* or 301–427–8503, at least 7 days prior to the meeting. In addition, NMFS will make a presentation on the supplement to the HMS AP on February 11, 2022. Information on the HMS AP meeting will be posted prior to the meeting at: *https://www.fisheries.noaa.gov/event/february-2022-hms-advisory-panel-meeting.*

The public is reminded that NMFS expects participants at public webinar to conduct themselves appropriately. At the beginning of the webinar, the moderator will explain how the webinar will be conducted and how and when participants can provide comments. NMFS representative(s) will structure the webinars so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Participants are expected to respect the ground rules, and those that do not may be asked to leave the webinar.

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

Dated: January 18, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–01282 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB734]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a one-and-a-half-day meeting of its Coral Advisory Panel (AP) and Scientific and Statistical Committee (SSC) via webinar.

DATES: The meeting will take place Monday, February 7, 2022, from 9 a.m. to 5 p.m. and Tuesday, February 8, 2022, from 9 a.m. to 12 p.m., EST.

ADDRESSES: The meeting will be held via webinar. Registration information will be available on the Council's

website by visiting *www.gulfcouncil.org* and clicking on the Meetings Tab and selecting Advisory Panel meetings, then Coral AP/SSC meeting.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; c*arrie.simmons@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Monday, February 7, 2022; 9 a.m.–5 p.m., EST

The meeting will begin with Introductions of Members, Adoption of Agenda, Approval of Minutes from the September 10, 2021 meeting, and review of Scope of Work and Contract, Roles and Responsibilities of the Coral AP and Coral SSC.

The AP and SSCs will review the Gulf of Mexico Fishery Management Council Mesophotic and Deepwater Coral Assessment; Introduction and Methodology for the Project, Site Selection and Literature Review of Potential Habitat Areas of Particular Concern (HAPC), Results of Site Prioritization for Management Purposes: Ecological and Vulnerability Assessment, Data Visualization Dashboard and Panel Feedback.

Tuesday, February 8, 2022; 9 a.m.–12 p.m., EST

The AP and SSC will review and discuss *Deepwater Horizon* Mesophotic and Deep Benthic Communities Restoration and upcoming activities and products and receive an overview of the Coral Reef Conservation Program Outcomes and Products titled: *A proposal addressing changes in coral reef habitats and potential management implications to ensure the sustainability of coral reefs and associated fisheries habitats in the Gulf of Mexico;* and, hold Panel discussion and feedback.

The AP and SSC will receive Public Comment and discuss any Other Business items. The meeting will adjourn by 12 p.m. EST on February 8, 2022.

The meeting will be via webinar only. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Advisory Panel meeting on the calendar. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Advisory Panel and Scientific and Statistical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel and Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda 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-action to address the emergency.

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

Dated: January 18, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–01194 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB739]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council including a joint session with the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Program (ISFMP) Policy Board.

DATES: The meetings will be held Tuesday, February 8, 2022 through Wednesday, February 9, 2022. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: This meeting will be conducted entirely by webinar. Webinar registration details will be available on the Council's website at *https://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, although agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Tuesday, February 8, 2022

Atlantic Sturgeon Bycatch Working Group
- Presentation on the formation and planned activities of the Atlantic Sturgeon Bycatch Working Group and request for public input

Recusal Briefing
- John Almeida, NOAA General Counsel

2022 Recreational Management Measures for Summer Flounder, Scup, and Black Sea Bass
- Review action taken by ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board regarding 2022 recreational management measures
- Consider revising Council recommendation for 2022 recreational management measures if needed in response to Board action

Council Meeting with the Atlantic States Marine Fisheries Commission's ISFMP Policy Board

Recreational Harvest Control Rule Framework/Addenda for Summer Flounder, Scup, Black Sea Bass, and Bluefish
- Review draft range of alternatives
- Consider splitting range of alternatives into multiple actions
- Approve final range of alternatives for framework/addenda
- Approve draft addenda for public hearings

Wednesday, February 9, 2022

Business Session
- Committee Reports (SSC, RSC); Executive Director's Report; Organization Reports; and Liaison Reports

Other Business and General Public Comment

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden,

(302) 526–5251, at least 5 days prior to the meeting date.

Dated: January 18, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–01196 Filed 1–21–22; 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; Fisheries Certificate of Origin

AGENCY: National Oceanic & Atmospheric Administration (NOAA), 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 March 25, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0335 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 Jessica Short, Scientist—TTVP Support, National Marine Fisheries Service (NMFS), West Coast Region (WCR), 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, (562) 980–4035 or *jessica.short@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection sponsored by NMFS' WCR. The information required by the International Dolphin Conservation Program Act, amendment to the Marine Mammal Protection Act, is needed to: (1) Document the dolphin-safe status of tuna import shipments; (2) verify that import shipments of fish were not harvested by large-scale, high seas driftnets; and (3) verify that tuna was not harvested by an embargoed nation or one that is otherwise prohibited from exporting tuna to the United States. Collected information includes the U.S. Customs and Border Protection Entry Identification, date of entry, and contact details on the exporting and importing companies.

Collected information also includes harvest characteristics such as fishing vessel name, fishing trip dates, vessel flag, vessel gear type, and ocean area of harvest, as well as the declaration of the dolphin safe status of the shipment, and if applicable, the attachment of required certifications. Forms are submitted by importers and processors. NMFS uses this information to verify the dolphin-safe status of tuna shipments.

II. Method of Collection

Importing respondents are required to submit the form electronically to U.S. Customs and Border Protection before or at the time of importation via the Automated Commercial Environment as per regulations at 50 CFR 216.24(f)(2). Domestic processors typically submit the forms monthly via email as per regulations at 50 CFR 216.93(d)(2).

III. Data

OMB Control Number: 0648–0335.

Form Number(s): NOAA Form 370.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 540.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 5,833.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) and the Dolphin Protection Consumer Information Act (16 U.S.C. 1385).

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. 2022–01253 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB735]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Research Steering Committee (RSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a workshop to consider the potential redevelopment of the Council's research set-aside (RSA) program. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The workshop will be held via webinar on Wednesday, February 16, 2022, from 9 a.m. through 4 p.m.

ADDRESSES: The workshop will take place over webinar with a telephone-only connection option. Details on how to connect to the webinar by computer

and by telephone will be available at: *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The RSC is hosting a workshop to develop recommendations for the possible redevelopment of the Council's RSA program. This is the final workshop in a series four that scoped out research, funding, and enforcement/administration issues and problems associated with the previous RSA program and identified possible considerations and improvements should a new program be redeveloped. During this workshop, participants will review and provide feedback on the recommendations identified from the first three workshops, draft program goals and objectives, and an initial draft strawman of a newly designed RSA program developed by the RSC. Based on the feedback and input received during the workshop, the RSC will then make final recommendations regarding the potential redevelopment of the RSA program to the Council for consideration later in 2022.

A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: January 18, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–01195 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB672]

Fisheries of the U.S. Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 80 Indices Topical Working Group Webinar III for U.S. Caribbean Queen Triggerfish.

SUMMARY: The SEDAR 80 stock assessment of U.S. Caribbean queen triggerfish will consist of a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 80 Indices Topical Working Group Webinar III will be held from 12 p.m. until 4 p.m. Eastern, February 15, 2022. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the webinar are as follows:

Participants will discuss and make recommendations regarding what indices data may be included in the assessment of U.S. Caribbean queen triggerfish.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the SEDAR office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 18, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–01192 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB727]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene a meeting of the Law Enforcement Advisory Panel (AP).

DATES: The Law Enforcement AP meeting will be held February 10, 2022, from 9 a.m. until 3 p.m.

ADDRESSES:

Meeting address: The meeting will be held at the Town and Country Inn, 2008 Savannah Hwy., Charleston, SC. The meeting is open to members of the public and will be broadcast via webinar as it occurs. Information, including a link to webinar registration, public comment form, and meeting materials will be posted on the Council's website at: *https://safmc.net/safmc-meetings/current-advisory-panel-meetings/* as it becomes available.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The Law Enforcement AP will discuss and provide recommendations on fishery management plan amendments under development by the Council and receive updates pertaining to law enforcement of fishery resources in the region.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 18, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–01193 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB644]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Central Gulf of Alaska Rockfish Program

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

ACTION: Notification of standard prices and fee percentage.

SUMMARY: NMFS publishes the standard ex-vessel prices and fee percentage for cost recovery under the Central Gulf of Alaska (GOA) Rockfish Program (Rockfish Program). This action is intended to provide participants in a rockfish cooperative with the standard prices and fee percentage for the 2021 fishing year, which was authorized from April 1 through November 15. The fee percentage is 2.77 percent. The fee payments are due from each rockfish cooperative on or before February 15, 2022.

DATES: Valid on: January 24, 2022.

FOR FURTHER INFORMATION CONTACT: Charmaine Weeks, 907–586–7105.

SUPPLEMENTARY INFORMATION:

Background

The rockfish fisheries are conducted in Federal waters near Kodiak, Alaska by trawl and longline vessels. Regulations implementing the Rockfish Program are set forth at 50 CFR part 679. Exclusive harvesting privileges are allocated as quota share under the Rockfish Program for rockfish primary and secondary species. Each year, NMFS issues rockfish primary and secondary species cooperative quota (CQ) to rockfish quota shareholders to authorize harvest of these species. The rockfish primary species are northern rockfish, Pacific ocean perch, and dusky rockfish. The rockfish secondary species include Pacific cod, rougheye rockfish, shortraker rockfish, sablefish, and thornyhead rockfish. Rockfish cooperatives began fishing under the Rockfish Program in 2012.

The Rockfish Program is a limited access privilege program established under the provisions of section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Sections 303A and 304(d) of the Magnuson-Stevens Act require NMFS to collect fees to recover the actual costs directly related to the management, data collection and analysis, and enforcement of any limited access privilege program. Therefore, NMFS is required to collect fees for the Rockfish Program under sections 303A and 304(d)(2) of the Magnuson-Stevens Act. Section 304(d)(2) of the Magnuson-Stevens Act also limits the cost recovery fee so that it may not exceed 3 percent of the ex-vessel value of the fish harvested under the Rockfish Program.

Standard Prices

NMFS calculates cost recovery fees based on standard ex-vessel value prices, rather than actual price data provided by each rockfish CQ holder. Use of standard ex-vessel prices is allowed under sections 303A and 304(d)(2) of the Magnuson-Stevens Act. NMFS generates a standard ex-vessel price for each rockfish primary and secondary species on a monthly basis to determine the average price paid per pound for all shoreside processors receiving rockfish primary and secondary species CQ. An emergency rule authorized the fishing season start on April 1, 2021 instead of May 1, 2021 (86 FR 14851, March 19, 2021). Rockfish processors that receive and purchase landings of rockfish CQ groundfish must submit, on an annual basis, a volume and value report for the period May 1 to November 15 (50 CFR 679.5(r)(10)(ii)). To calculate fees for landings occurring in the month of April, NMFS applied the annual average standard price.

Regulations at 50 CFR 679.85(b)(2) require the Regional Administrator to publish rockfish standard ex-vessel values during the first quarter of each calendar year. The standard prices are described in U.S. dollars per pound for rockfish primary and secondary species CQ landings made during the previous year.

Fee Percentage

NMFS assesses a fee on the standard ex-vessel value of rockfish primary species and rockfish secondary species CQ harvested by rockfish cooperatives in the Central GOA and waters adjacent to the Central GOA when rockfish primary species caught by a cooperative are deducted from the Federal total allowable catch. The rockfish entry level longline fishery and trawl vessels that opt out of joining a cooperative are not subject to cost recovery fees because those participants do not receive rockfish CQ. Specific details on the Rockfish Program's cost recovery provision may be found in the implementing regulations set forth at 50 CFR 679.85.

NMFS informs—by letter—each rockfish cooperative of the fee percentage applied to the previous year's landings and the total amount due. Fees are due on or before February 15 of each year. Failure to pay on time will result in the permit holder's rockfish quota share becoming non-transferable, and the person will be ineligible to receive any additional rockfish quota share by transfer. In addition, cooperative members will not receive any rockfish CQ the following year until full payment of the fee is received by NMFS.

NMFS calculates and publishes in the **Federal Register** the fee percentage in the first quarter of each year according to the factors and methods described in Federal regulations at 50 CFR 679.85(c)(2). NMFS determines the fee percentage that applies to landings made in the previous year by dividing the total Rockfish Program management, data collection and analysis, and enforcement costs (direct program costs) during the previous year by the total standard ex-vessel value of the rockfish primary species and rockfish secondary species for all rockfish CQ landings made during the previous year (fishery value). NMFS captures the direct program costs through an established accounting system that allows staff to track labor, travel, contracts, rent, and procurement. Fee collections in any given year may be less than or greater than the direct program costs and fishery value for that year, as the fee percentage is established by regulation in the first quarter of the calendar year based on the program costs and the fishery value of the previous calendar year.

Using the fee percentage formula described above, the estimated percentage of program costs to value for the 2021 calendar year is 2.77 percent of the standard ex-vessel value. Program costs for 2021 increased marginally compared to 2020 costs, however, the fishery value increased approximately 35 percent resulting in a lower fee percentage. Similar to 2020, the majority of 2021 costs were a result of direct personnel and contract costs.

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2021 ROCKFISH PROGRAM SEASON IN KODIAK, ALASKA

Species	Period ending	Standard ex-vessel price per pound
Dusky Rockfish	April 30	$0.13
	May 31	0.13
	June 30	0.13
	July 31	0.13
	Aug 31	0.13
	September 30	0.13
	October 31	0.13
	November 30	0.13
Northern Rockfish	April 30	0.13
	May 31	0.13
	June 30	0.13
	July 31	0.13
	Aug 31	0.13
	September 30	0.13
	October 31	0.13
	November 30	0.13
Pacific Cod	April 30	0.34
	May 31	0.32
	June 30	0.35
	July 31	0.34
	Aug 31	0.34
	September 30	0.33
	October 31	0.35
	November 30	0.34
Pacific Ocean Perch	April 30	0.13
	May 31	0.13
	June 30	0.13
	July 31	0.13
	Aug 31	0.13
	September 30	0.13
	October 31	0.13
	November 30	0.13
Rougheye Rockfish	April 30	0.15
	May 31	0.15
	June 30	0.12
	July 31	0.15
	Aug 31	0.15
	September 30	0.15
	October 31	0.15
	November 30	0.15
Sablefish	April 30	1.08
	May 31	0.89
	June 30	1.17
	July 31	1.08
	Aug 31	1.08
	September 30	1.08
	October 31	0.85
	November 30	1.12
Shortraker Rockfish	April 30	0.19

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2021 ROCKFISH PROGRAM SEASON IN KODIAK, ALASKA—Continued

Species	Period ending	Standard ex-vessel price per pound
	May 31	0.19
	June 30	0.16
	July 31	0.19
	Aug 31	0.19
	September 30	0.19
	October 31	0.19
	November 30	0.26
Thornyhead Rockfish	April 30	0.19
	May 31	0.19
	June 30	0.13
	July 31	0.19
	Aug 31	0.19
	September 30	0.19
	October 31	0.14
	November 30	0.25

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

Dated: January 18, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–01198 Filed 1–21–22; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No.: CFPB–2022–0002]

Notice and Request for Comment Regarding the CFPB's Inquiry Into Buy-Now-Pay-Later (BNPL) Providers

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice; request for comment.

SUMMARY: On December 16, 2021, the Consumer Financial Protection Bureau (Bureau) opened market monitoring orders, inquiring into Buy-Now-Pay-Later (BNPL) products in the United States to gain information about the size, scope, and business practices of the BNPL market. The information will help the Bureau better understand how consumers interact with BNPL providers, and how BNPL business models impact the broader e-commerce and consumer credit marketplaces. The Bureau also issued a press release to accompany these orders. The Bureau invites any interested parties, including consumers, small businesses, consumer advocates, financial institutions, trade associations, investors, state and Federal regulators and Attorneys General, and experts in consumer lending, payments, and marketing to submit comments to inform the agency's inquiry.

DATES: Comments must be received on or before March 25, 2022.

ADDRESSES: You may submit comments, identified by Docket No.: CFPB–2022–0002, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: BNPLInquiry@cfpb.gov.* Include Docket No.: CFPB–2022–0002 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Statement into BNPL Providers, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

Instructions: The Bureau encourages the early submission of comments. All submissions should include document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *https://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. At that time, you can make an appointment to inspect the documents by telephoning 202–435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information. This docket is not for submitting other information to the Bureau, such as consumer complaints on a particular company. If you would like to submit a complaint, please visit *consumerfinance.gov* (*https://www.consumerfinance.gov/complaint/*).

FOR FURTHER INFORMATION CONTACT: Laura Udis, Program Manager, Small Dollar, Marketplace, and Installment Lending, 202–435–9158. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the December 16, 2021, market monitoring orders and accompanying press release, the Bureau required five providers of Buy-Now-Pay-Later (BNPL) products in the United States to provide information about their size, scope, and business practices.[1] The Bureau listed six areas of specific interest:

- Business Model and Transaction Metrics
- Loan Performance Metrics
- Consumer Protections
- User Contacts and Demographics
- Data Harvesting
- Data Monetization

The Bureau invites any interested parties to submit comments to inform the agency's inquiry.

[1] The press release and sample order can be found at *https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-opens-inquiry-into-buy-now-pay-later-credit/.*

II. Public Comment

The Bureau encourages comments about BNPL products. For example: What is the consumer experience with BNPL products? What are the benefits and risks to consumers from BNPL products? What is the merchant experience with BNPL products? What perspectives do regulators and Attorneys General have with respect to BNPL products? Are there ways in which the BNPL market can be improved?

The Bureau is opening a docket on *Regulations.gov* and invites any interested parties to submit relevant comments to inform the agency's inquiry.

Rohit Chopra,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2022–01278 Filed 1–21–22; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Wednesday, January 26, 2022, 10:00–11:00 a.m.

PLACE: This meeting will be held remotely.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED: Decisional Matter:

Final Rule: Safety Standard for Crib Mattresses

All attendees and participants should pre-register for the Commission meeting (Webinar). To pre-register for the Webinar, please visit *https://attendee.gotowebinar.com/register/9089674042451601677* and fill in the information. After registering you will receive a confirmation email containing information about joining the webinar.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: January 19, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–01355 Filed 1–20–22; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0111]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoD Mortuary Affairs Forms; DD Form(s) 3045, 3046, 3047, 3048, 3049, 3050; OMB Control Number 0704–0581.

Type of Request: Extension.

Number of Respondents: 900.

Responses per Respondent: 1.33.

Annual Responses: 1,200.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 300 hours.

Needs and Uses: The information collection requirement is necessary to obtain and document the selection (as applicable) of the Person Authorized to Direct Disposition (PADD), who is authorized to direct disposition of human remains of decedents. As stated in 10 U.S. Code 1481, 'Recovery, Care, and Disposition of Remains: Decedents Covered,' the DoD may provide for the recovery, care, and disposition of the remains for active-duty regulars, reserve component members, applicants, trainees, military prisoners, and others. The DoD is further authorized, per 10 U.S.C. 1482 and 10 U.S.C. 1482a to provide reimbursement, cover expenses, or otherwise provide mortuary services for decedents, including civilian employees serving with the armed forces. In order to provide reimbursement or these services, the DoD is charged with electing and documenting the elections of PADD of the remains, to whom the payment/reimbursement is made. The Service Casualty Office and DoD mortuaries use the information provided in this collection to document the election of the PADD for the preparation, transportation, and final disposition of the remains, as applicable. Depending on the circumstances, a PADD may be asked to complete up to six forms. All PADDs will complete the DD Form 3045, but may additionally be asked to provide information on the DD Forms 3046, 3047, 3048, 3049, and/or 3050. A description of each form has been provided to clarify under which circumstances each form may be used.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01270 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0091]

Submission for OMB Review; Comment Request

AGENCY: The Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Materiel Disposition Procedures for the Sale of DoD Materiel; DLA Form 2536, DLA Form 2537; OMB Control Number 0704–0534.

Type of Request: Revision.

Number of Respondents: 72.

Responses per Respondent: 2.

Annual Responses: 144.

Average Burden per Response: 82.5 minutes.

Annual Burden Hours: 198.

Needs and Uses: This collection is necessary for the DoD and its representatives to assess the ability of prospective purchasers to comply with applicable laws and regulations before the sale of materiel. Defense Logistics Agency (DLA) Form 2536, ''Statement of Intent,'' is used to identify the nature of the purchaser's business, where the materials will be stored, and what the buyer's intentions are with the materiel (*i.e.,* use the materiel as intended, re-sell to others, scrap the materiel for recovery of contents, or re-refine or re-process the materiel). This form is used to determine if DLA Form 2537, ''Pre-Award/Post-Award On-Site Survey HM/HW Recycler/Processor/Manufacturer,'' will also be needed; DLA Form 2537 allows DoD components to determine if the purchaser is capable of meeting environmental and hazardous material handling responsibilities, in compliance with Part 102 of Title 41 CFR. Compliance with this regulation must be ascertained before DoD components may make an award of hazardous and dangerous property.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01272 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–HA–0067]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoD COVID–19 Vaccine Questionnaire; OMB Control Number 0720–0069.

Type of Request: Extension.

Number of Respondents: 570,000.

Responses per Respondent: 1.

Annual Responses: 570,000.

Average Burden per Response: 2 minutes.

Annual Burden Hours: 19,000.

Needs and Uses: The purpose of the DoD COVID–19 Vaccine Questionnaire is as follows: (1) Exercise due-diligence to reach out to the vast majority of our authorized vaccine eligible population (but has not received the COVID–19 vaccine per Military Health System records) with instructions on how to receive the vaccine. (2) Understand existing vaccine demand to adjust. (3) Inform future (*i.e.,* booster) vaccination efforts. (4) Lift an administrative burden from the military treatment facilities by executing a standardized survey at the HQ level. (5) Remind message/questionnaire recipients to have their medical record updated with their vaccination as applicable.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Julie Wise.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are

received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01267 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0104]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Officer Retention and Promotion Barrier Analysis; OMB Control Number 0704–0609.

Type of Request: Extension.

Number of Respondents: 340.

Responses per Respondent: 1.

Annual Responses: 340.

Average Burden per Response: 88 minutes.

Annual Burden Hours: 499 hours.

Needs and Uses: The Fiscal Year 2021 (FY21) National Defense Authorization Act (Section 551) requires DoD to conduct a barrier analysis to review demographic diversity patterns across the military life cycle, starting with enlistment or accession into the armed forces in order to: (i) Identify barriers to increasing diversity; (ii) develop and implement plans and processes to resolve or eliminate any barriers to diversity; and (iii) review the progress of the armed forces in implementing previous plans and processes to resolve or eliminate barriers to diversity. This information collection will support the Office for Diversity, Equity, and Inclusion and DoD to contextualize quantitative data obtained via the DoD Total Force Demographics application and collect as part of the FY21 Officer Cohort Analysis and respond to Executive Order (E.O.) Advancing Racial Equity and Support for Underserved Communities Through the Federal Government E.O. 13985.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01269 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0115]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Sexual Assault Incident Reporting; DD Form 2965, 2910, 2910–1, 2910–2; OMB Control Number 0704–0482.

Type of Request: Revision.

Number of Respondents: 8,247.

Responses per Respondent: 1.

Annual Responses: 8,247.

Average Burden per Response: 2.1 hours.

Annual Burden Hours: 17,318 hours.

Needs and Uses: Section 563 of Public Law (Pub. L.) 110–417, the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009, directs the Secretary of Defense to implement a centralized case-level database for the collection and maintenance of information regarding sexual assaults involving members of the armed forces. This includes information, if available, about the nature of the assault, victim, alleged offender, investigative information, case outcomes in connection with the assault, and other information necessary to fulfill reporting requirements. Section 543 of Public Law 114–328, the NDAA for FY2017, further directed the Secretary

of Defense to include information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force in the Annual Report on Sexual Assault in the Military. This includes the narrative description and nature of each complaint, information on the complainant and alleged retaliator, and summary and determination of the investigation. Section 536 of Public Law 116–92 of the NDAA for Fiscal Year 2020 directs the Secretary to prescribe procedures under which a victim who files a restricted report on an incident of sexual assault may request, at any time, the return of any personal property of the victim obtained as part of the sexual assault forensic examination.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01275 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0095]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exceptional Family Member Program Family Needs Assessment; DD Form 3054; OMB Control Number 0704–0580.

Type of Request: Extension.

Number of Respondents: 20,000.

Responses per Respondent: 1.

Annual Responses: 20,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 10,000 hours.

Needs and Uses: Section 1781c of Title 10, U.S.C. requires the Office of Community Support for Military Families with Special Needs (OSN) to enhance and improve support for military families with special needs. In this effort, OSN and the four Services developed the DD Form 3054 Exceptional Family Member Program (EFMP) Family Needs Assessment (FNA) as standard documentation to guide assessment of needs, service planning and case transfer processes for the Family Support component of the EFMP. The EFMP FNA assists EFMP Family Support staff in identifying the needs of families and developing plans of action. The EFMP FNA addresses current differences in assessment processes and inconsistent transfer of cases across the Services. With this standardized form, installation-level EFMP Family Support Offices can provide a family support experience that is consistent across the Services and maintains continuity of services when military families with special needs have Permanent Change of Station orders to a Same-Service or Sister-Service location. DD Form 3054 is used by EFMP Family Support staff in collaboration with families who request assistance in navigating resources and systems of support. The form documents a family's needs and provides a plan for them to gain access to support and resources in the community which meets those needs. The Family Services Plan Addendum provides a plan of action and a way to track the progress towards goals set by the family with the assistance of the EFMP Family Support staff.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01268 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2021–HQ–0010]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Assistant Secretary of the Navy, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 23, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of the Navy Reasonable Accommodations Tracker; SECNAV Form 12306/1; OMB Control Number 0703–0063.

Type of Request: Revision.

Number of Respondents: 2,000.

Responses per Respondent: 1.

Annual Responses: 2,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 667.

Needs and Uses: The information collection requirement is necessary to track, monitor, review, and process requests for reasonable accommodations applicants for employment. This information will be collected by the Department of the Navy Equal Employment Opportunity personnel involved in the Reasonable Accommodation process and data input into the Reasonable Accommodation Tracker (electronic information system) pursuant to Executive Order 13163. Official Reasonable Accommodation case files are secured with access granted on a strictly limited basis.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 19, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–01273 Filed 1–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0007]

Agency Information Collection Activities; Comment Request; Streamlined Clearance Process for Discretionary Grants

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before March 25, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *https://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0007. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *https://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–453–7718.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Streamlined Clearance Process for Discretionary Grants.

OMB Control Number: 1894–0001.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments *Total Estimated Number of Annual Responses:* 1.

Total Estimated Number of Annual Burden Hours: 3.

Abstract: Section 3505(a)(2) of the PRA of 1995 provides the OMB Director authority to approve the streamlined clearance process proposed in this information collection request. This information collection request was originally approved by OMB in January of 1997. This information collection streamlines the clearance process for all discretionary grant information collections which do not fit the generic

application process. The streamlined clearance process continues to reduce the clearance time for the U.S. Department of Education's (ED's) discretionary grant information collections by two months or 60 days. This is desirable for two major reasons: it would allow ED to provide better customer service to grant applicants and help meet ED's goal for timely awards of discretionary grants. § 3474.20(d) adds the requirement for grantees to develop a dissemination plan for copyrighted work under open licensing. Information contained in the narrative of an application will be captured in the Evidence of Effectiveness Form.

Dated: January 19, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–01276 Filed 1–21–22; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0068; FRL–8732–07–OCSPP]

Certain New Chemicals; Receipt and Status Information for December 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 12/01/2021 to 12/31/2021.

DATES: Comments identified by the specific case number provided in this document must be received on or before February 23, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0068, and the specific case number for the chemical substance related to your comment, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 12/01/2021 to 12/31/2021. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

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

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *https://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA

review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

II. Status Reports

Given public interest in information on the status of TSCA section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the TSCA section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 12/01/2021 TO 12/31/2021

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–22–0008	1	11/18/2021	CBI	(G) Manufacture of an alcohol	(G) Modified Yeast.
J–22–0009	1	12/10/2021	Danisco US, Inc.	(G) Production of a chemical substance.	(G) Genetically modified microorganism for the production of a chemical substance.
J–22–0010	1	12/10/2021	Danisco US, Inc.	(G) Production of a chemical substance.	(G) Genetically modified microorganism for the production of a chemical substance.
P–18–0097A	3	12/23/2021	Mane USA	(G) Ingredient	(S) 1,3-Dioxane, 2-(3,3-dimethyl-1-cyclohexen-1-yl)-2,5,5-trimethly-.
P–18–0293A	14	12/28/2021	Sirrus, Inc	(S) Intermediate: Monomer used as a chemical intermediate in the manufacture of polymers (G) Coatings: Monomer used in the manufacture of industrial coatings (*e.g.,* protective floor coatings). The PMN substance (*i.e.,* unreacted monomer) is not used in spray applications. Adhesives: Monomer used in the manufacture (formulation) (*e.g.,* reactive, industrial structural or lamination).	(S) Propanedioic acid, 2-methylene-, 1,3-dihexyl ester.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 12/01/2021 TO 12/31/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–18–0294A	14	12/28/2021	Sirrus, Inc	(S) Intermediate: Monomer used as a chemical intermediate in the manufacture of polymers.. (G) Coatings: Monomer used in the manufacture of industrial coatings (*e.g.,* protective floor coatings). The PMN substance (*i.e.,* unreacted monomer) is not used in spray applications. Adhesives: Monomer used in the manufacture (formulation) of (*e.g.,* reactive, industrial structural or lamination).	(S) Propanedioic acid, 2-methylene-, 1,3-dicyclohexyl ester.
P–21–0101A	2	12/13/2021	ENI trading & shipping INC.	(G) Used as a lubricant and lubricant additive.	(G) Benzenesulfonic acid, polyalkyl derivs., calcium salts.
P–21–0133A	6	12/01/2021	CBI	(S) Chemical Intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism, modified.
P–21–0141A	5	12/23/2021	Valero Energy Corporation.	(S) Transportation Fuel	(S) Alkanes, C4–8—Branched and Linear.
P–21–0168A	3	12/23/2021	CBI	(G) Colorant	(G) Metal, [heteropolycyclic]-, [[[(hydroxyalkyl)amino]sulfonyl]alkyl]sulfonyl(sulfoalkyl)sulfonyl derivs., ammonium sodium salts.
P–21–0169	3	12/15/2021	CBI	(G) Additive for plastic	(G) Fatty acids, penta-alkyl-4-piperidinyl esters.
P–21–0182A	3	12/01/2021	CBI	(S) chemical intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism.
P–21–0183A	3	12/01/2021	CBI	(S) chemical intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism, modified.
P–21–0190A	3	12/07/2021	Santolubes Manufacturing LLC.	(S) This product will be used in gear oils & greases, wind turbines, HX–1 (incidental food contact) lubricants and EV (Electric Vehicle) motors. It will be used by OEMs in these applications as components in finished formulations. The intended use of these products is 100% industrial and not intended for use as consumer products.	(S) Poly(oxy-1,2-ethanediyl)-alpha-(1-oxohexyl)-omega-[(1-oxohexyl)oxy]-.
P–21–0193A	4	12/07/2021	Santolubes Manufacturing LLC.	(S) This product will be used in gear oils & greases, wind turbines, HX–1 (incidental food contact) lubricants and EV (Electric Vehicle) motors. It will be used by OEMs in these applications as components in finished formulations. The intended use of these products is 100% industrial and not intended for use as consumer products.	(S) Fatty acids, C8–10, diesters with polyethylene glycol.
P–21–0201A	8	12/09/2021	The Lewis Chemical Company.	(S) The intention is for this product to be used as an offset to N,N,N′,N′,N′-Pentamethyl-N-tallow alkyl1,3-propanediammonium chloride (CAS#68607–29–4) in a cationic latex asphalt emulsion formulation.	(S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3–9-octadecen-1-yl, chloride (1:2); (S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-octadecyl-, chloride (1:2); (S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-tetradecyl-, chloride (1:2); (S) 1,3-Propanediaminium, N-hexadecyl-2-hydroxy-N,N,N′,N′,N′-pentamethyl-, dichloride (2Cl);.
P–21–0201A	9	12/20/2021	The Lewis Chemical Company.	(S) The intention is for this product to be used as an offset to N,N,N',N',N''-Pentamethyl-N-tallow alkyl1,3-propanediammonium chloride (CAS#68607–29–4) in a cationic latex asphalt emulsion formulation.	(S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-octadecen-1-yl, chloride (1:2); (S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-octadecyl-, chloride (1:2); (S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-tetradecyl-, chloride (1:2); (S) 1,3-Propanediaminium, N-hexadecyl-2-hydroxy-N,N,N′,N′,N′-pentamethyl-, dichloride (2Cl);.
P–21–0216A	2	12/10/2021	CBI	(G) Additive in electrode materials. (G) Additive in plastics.	(G) Multi-walled carbon nanotubes.
P–21–0217A	2	12/10/2021	CBI	(G) Additive in electrode materials. (G) Additive in thermoplastics. (G) Component in electrodes.	(G) Multi-walled carbon nanotubes.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 12/01/2021 TO 12/31/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–22–0003	2	12/10/2021	INV Nylon Chemicals Americas, LLC.	(S) Clay Stabilizer in Oil & Gas Fracking.	(S) 1,5-Pentanediamine, 2-methyl-, hydrochloride (1:2).
P–22–0004	2	12/10/2021	INV Nylon Chemicals Americas, LLC.	(S) Clay Stabilizer in Oil & Gas Fracking.	(S) 1,5-Pentanediamine, 2-methyl-, hydrochloride (1:1).
P–22–0005	2	12/10/2021	INV Nylon Chemicals Americas, LLC.	(S) Clay Stabilizer in Oil & Gas Fracking.	(S) Formic acid, compd. with 2-methyl-1,5-pentanediamine (2:1).
P–22–0006	2	12/10/2021	INV Nylon Chemicals Americas, LLC.	(S) Clay Stabilizer in Oil & Gas Fracking.	(S) Formic acid, compd. with 2-methyl-1,5-pentanediamine (1:1).
P–22–0007	3	12/22/2021	CBI	(S) This compound will be used as a crosslinker in formulating general purpose sealants and adhesives for use in consumer and professional markets. The crosslinker reacts in the presence of moisture to cure a sealant.	(G) 3,5,8-Trioxa-4-silaalkanoic acid, 4-ethenyl-4-(2-alkoxy-1-alkyl-2-oxoethoxy)-2,6-dialkyl-7-oxo-, alkyl ester.
P–22–0008A	3	12/20/2021	CBI	(G) Biocatalyst used in a variety of products.	(S) .beta.-N-Acetylhexosaminidase.
P–22–0009	2	12/02/2021	CBI	(S) Gasoline blending component to reduce the average carbon intensity and subsequent CO2 emissions of fuel.	(S) Alkanes, C4–C9-branched and linear.
P–22–0009A	3	12/07/2021	CBI	(S) Gasoline blending component to reduce the average carbon intensity and subsequent CO2 emissions of fuel.	(S) Alkanes, C4–C9-branched and linear.
P–22–0011	2	11/30/2021	Lord Corporation.	(G) Functionalized rubber in resin side of two component epoxy modified acrylic adhesive. (G) Functionalized rubber in resin side of two component acrylic adhesive.	(G) Alkadiene, homopolymer, hydroxy-terminated, bis[N-[2-[(1-oxo-2-propen-1-yl)oxylethyl]carbamates].
P–22–0013	1	12/02/2021	Corteva Agriscience LLC.	(S) Raw Material/Intermediate, Site-Limited, Destructive Use.	(G) 2-pyridinecarboxylic acid, 3-halo,4-nitrogen-substituted-5-halo-6-halo, aryl ester.
P–22–0015	2	12/16/2021	Corteva Agriscience LLC.	(S) Raw Material, Site-Limited, Destructive Use.	(G) 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo-.
P–22–0016	1	12/13/2021	CBI	(G) Complexing agent	(G) Alkyl glycine dicarboxylic acid sodium salt.
P–22–0017	1	12/14/2021	Sasol Chemicals (USA) LLC.	(S) Paraffin wax substitute for candles. (S) Alkylate for polymer esters.	(S) 1—Eicosanol, manuf. of, distn., residues.
P–22–0018	1	12/14/2021	CBI	(G) Component of lubricant	(G) Substituted polyalkylenepoly, reaction products with substituted heteromonocycle substituted heteromonocycle polyalkylene derivs.
P–22–0019	1	12/16/2021	CBI	(G) Film-forming polymer	(G) Protein sodium complexes, polymers with aromatic acid chloride, ethylene diamine and amino acid.
P–22–0021	1	12/17/2021	CBI	(G) Nucleating Agent for Polyolefins.	(G) Alkylphosphonic acid, calcium salt.
P–22–0023	1	12/21/2021	CBI	(G) Catalyst system component.	(G) Alkyldioic acid, bis(alkylalkyl)-, polyalkyl ester.
P–22–0026	1	12/23/2021	CBI	(G) Emulsifier for industrial uses.	(G) Polyalkylamines, reaction products with maleated glycerides.
SN–21–0013	2	11/30/2021	Koch Agronomic Services.	(S) Additive for urea ammonium nitrate, UAN, fertilizer for boom spray applications.	(S) Urea, reaction products with N-butylphosphorothioic triamide and formaldehyde.
SN–22–0002	1	12/17/2021	Eastman Chemical Company, INC.	(S) Solvent-borne coatings (S) Coatings for consumer use, brush on coatings. (S) Coatings for commercial use, spray coating. (G) Consumer use other than brush on.	(S) 2-Pyrrolidinone, 1-butyl-.

*The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90 day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned

to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 12/01/2021 TO 12/31/2021

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–16–0110	12/20/2021	12/17/2021	N	(G) Heteropolycycle hydrogen carbonate, polycondensate with alkyl hydrogen carbonate.
P–16–0349	12/10/2021	11/21/2021	N	(G) Quaternary ammonium salt of polyisobutene succinic acid.
P–16–0430	11/29/2021	11/24/2021	N	(S) Pentanedioic acid, 2-methyl-.
P–18–0284	12/06/2021	11/29/2021	N	(G) Inorganic acid, reaction products with alkyl alcohol.
P–20–0058	12/01/2021	11/15/2021	N	(S) Maltodextrin, polymer with 2-propenoic acid and n,n,n-trimethyl-2-[(2-methyl-1-oxo-2-propen-1- yl)oxy]ethanaminium chloride (1:1), sodium salt, peroxydisulfuric aci d ([(HO)S(O)2]2O2) sodium salt (1:2)-initiated.
P–20–0064	12/16/2021	12/13/2021	N	(S) Multi-walled carbon nanotubes; closed; 7.9–14.2 nm diameter; bundle length 9.4–106.4 μm; Grade: jenotube 10.
P–20–0105	12/16/2021	11/24/2021	N	(S) 4h-Pyran-4-one, 3-[(2,5-dihydro-4-methyl-5-oxo-2-furanyl)oxy]-2-methyl-.
P–21–0063	12/21/2021	11/29/2021	N	(G) Heterocyclic-polycarboxylic acid, polyhaloaryl-polyhydro-alkyl-polyalkyl ester,

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 12/01/2021 TO 12/31/2021

Case No.	Received date	Type of test information	Chemical substance
P–14–0712	11/29/2021	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A	(S) Waste plastics, pyrolyzed, C5–55 fraction.
P–14–0712	12/20/2021	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A	(S) Waste plastics, pyrolyzed, C5–55 fraction.
P–16–0543	11/28/2021	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–18–0413	12/16/2021	Freezing Point Test (OECD Test Guideline 102), Boiling Point Test (OECD Test Guideline 103), Relative Density Test (OECD Test Guideline 109), Vapor Pressure Test (OECD Test Guideline 104), Water Solubility Test (OECD Test Guideline 105), N-octanol/Water Partition Coefficient (Log Kow) Test (OECD Test Guideline 107), pH Test (CIPAC Method MT 75.3), Surface Tension Test (OECD Test Guideline 115), Dissociation Constant Test (OECD Test Guideline 112), Viscosity Test (OECD Test Guideline 114), Auto-ignition Temperature Test (EC A.15), Flash Point Test (EC A.9), Explosive Properties Test (EC A.14), Oxidizing Properties Test (EC A.21), Ready Biodegradability Test (OECD Test Guideline 301C), Inherent Biodegradability Test (OECD Test Guideline 302C), Hydrolysis Test (OECD Test Guideline 111), Absorption/Desorption (Log Koc): HPLC Screening (OECD Test Guideline 121), Absorption/Desorption (Log Koc): Study in Soils (OECD Test Guideline 106), Algal Growth Inhibition Test (OECD Test Guideline 201), Acute Toxicity Daphnids Test (OECD Test Guideline 202), Acute Toxicity to Fish Test (OECD Test Guideline 203), Activated Sludge Respiration Inhibition Test (OECD Test Guideline 209), Chronic Toxicity to Daphnids Test (OECD Test Guideline 211), Chronic Toxicity to Fish Test (OECD Test Guideline 210), Acute Oral Toxicity Test (OECD Test Guideline 425), Acute Dermal Toxicity Test (OECD Test Guideline 402), Acute Inhalation Toxicity Test (OECD Test Guideline 403), Skin Irritation Test (OECD Test Guideline 404), Eye Irritation Test (OECD Test Guideline 405), Skin Sensitization: LLNA Test (OECD Test Guideline 429), *In Vitro* genotoxicity: Gene Mutation Study in Bacteria (Ames Test) (OECD Test Guideline 471), *In Vitro* genotoxicity: Cytogenicity Study in Mammalian Cells (Chromosome Aberration Test) (OECD Test Guideline 473), *In Vitro* genotoxicity: Gene Mutation Study in Mammalian Cells (Mouse Lymphoma Assay) (OECD Test Guideline 490), *In Vivo* genotoxicity: Micronucleus Study (OECD Test Guideline 474), Repeated Dose Toxicity: 28-Day Study (OECD Test Guideline 407 and 412), Repeated Dose Toxicity: 90-Day Study (OECD Test Guideline 413), and Prenatal Developmental Toxicity Study (OECD Test Guideline 414).	(G) Haloalkyl alkanoate.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: January 19, 2022.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2022–01304 Filed 1–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2021–0169; FRL–7877–01–OW]

National Pollutant Discharge Elimination System (NPDES) 2022 Issuance of General Permit for Stormwater Discharges From Construction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final permit issuance.

SUMMARY: All ten (10) Environmental Protection Agency (EPA) Regions are finalizing the 2022 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities, also referred to as the ''2022 Construction General Permit,'' the ''2022 CGP,'' or the ''final permit.'' The final permit will replace the 2017 CGP that will expire at midnight on February 16, 2022. EPA is issuing this permit for five (5) years to provide permit coverage to eligible operators in all areas of the country where EPA is the NPDES permitting authority, including Massachusetts, New Hampshire, New Mexico, oil and gas activities within Oklahoma, most Indian country lands, the District of Columbia, U.S. territories and protectorates except for the U.S. Virgin Islands, and certain federal facilities. This **Federal Register** document summarizes the final permit. The final permit and fact sheet can be found at *https://www.epa.gov/npdes/2022-construction-general-permit-cgp.* EPA's responses to public comments that were submitted in response to the proposed 2022 CGP may be found in the docket for this action (Docket ID No. EPA–HQ–OW–2021–0169).

DATES: The final permit will become effective on February 17, 2022. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act (CWA) requirements in light of the expiration of the 2017 CGP on February 16, 2022. In accordance with 40 CFR part 23, the 2022 CGP shall be considered issued for the purpose of judicial review on February 7, 2022. Under CWA Section 509(b), judicial review of this general permit can be requested by filing a petition for review in the United States Court of Appeals within 120 days after the permit is issued. Under CWA Section 509(b)(2), the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings. Deadlines for submittal of a Notice of Intent (NOI) are provided in Part 1.4.3 of the 2022 CGP. The 2022 CGP also provides additional dates for compliance with the requirements of the permit.

EPA will host a webinar on February 24 at 1:00 p.m. (Eastern Time Zone) to provide an overview of the 2022 CGP and an opportunity for participants to ask questions. Those interested may register for the webinar at *https://www.zoomgov.com/webinar/register/WN_DsNwf8dQTzC1pCk0HCyVnQ.* Further details on the webinar, including a post-webinar recording, will be made available at *https://www.epa.gov/npdes/2022-construction-general-permit-cgp.*

FOR FURTHER INFORMATION CONTACT: For further information on the final permit, contact the appropriate EPA Regional office listed in Section I.F of this document, or Greg Schaner, EPA Headquarters, Office of Water, Office of Wastewater Management at 202–564–0721 or email: *cgp@epa.gov.*

SUPPLEMENTARY INFORMATION: This section is organized as follows:

I. General Information
A. Does this action apply to me?
B. How can I get copies of these documents and other related information?
C. Who are the EPA regional contacts for this permit?
II. Background of Permit
A. Technology-Based Effluent Limits (TBELs)
B. Water Quality-Based Effluent Limits (WQBELs)
III. Summary of Final Permit
A. Final Changes That Improve Clarity of the Permit
B. Final Changes That Add Specificity To Permit Requirements
IV. Provisions Not Finalized in the 2022 CGP
V. Implementation Assistance
VI. Paperwork Reduction Act (PRA)
VII. 2022 CGP Incremental Cost Analysis and Future Cost-Benefit Considerations
VIII. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
IX. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
X. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
XI. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

I. General Information

A. Does this action apply to me?

1. Entities Covered by This Permit

This final permit covers stormwater discharges to waters of the United States from construction activities located in areas identified in Appendix B of the permit from the following entities, as categorized in the North American Industry Classification System (NAICS):

TABLE 1—ENTITIES COVERED BY THIS PERMIT

Category	Examples of affected entities	North American Industry Classification System (NAICS) code
Industry	Construction site operators disturbing one or more acres of land, or less than one acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more, and performing the following activities:	
	Construction of Buildings	236
	Heavy and Civil Engineering Construction	237

EPA does not intend the preceding table to be exhaustive but provides it as a guide for readers regarding the types of activities EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your site is covered by this action, you should carefully examine the definition of ''construction activity'' and ''small construction activity'' in existing EPA regulations at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed for technical information

in the preceding **FOR FURTHER INFORMATION CONTACT** section.

2. Types of Construction Sites for Which Operators Are Eligible for Permit Coverage

Coverage under this permit will be available to operators of eligible sites located in those areas where EPA is the permitting authority. A list of eligible areas is included in Appendix B of the final permit. Eligibility for permit coverage is limited to operators of ''new sites,'' operators of ''existing sites,'' ''new operators of permitted sites,'' and operators of ''emergency-related projects.'' A ''new site'' is a site where construction activities commenced on or after the effective date of the final 2022 CGP. An ''existing site'' is a site with 2017 CGP coverage where construction activities commenced prior to the effective date of the final 2022 CGP. A ''new operator of a permitted site'' is an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a ''new site'' or an ''existing site.'' An ''emergency-related project'' is a project initiated in response to a public emergency (*e.g.,* mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish public services.

3. Geographic Coverage

This 2022 CGP provides coverage to eligible operators for stormwater discharges from construction activities that occur in areas not covered by an approved state NPDES program. The areas of geographic coverage for the 2022 CGP are listed in Appendix B, and include the states of New Hampshire, Massachusetts, and New Mexico, oil and gas activities within Oklahoma, as well as most Indian country lands, and certain federal facilities. Permit coverage can also be obtained by operators in Puerto Rico, the District of Columbia, and the Pacific Island territories (*i.e.,* Island of American Samoa, Island of Guam, and Johnston Atoll, Commonwealth of the Northern Mariana Islands, Midway Island, and Wake Island). EPA notes that the CGP will no longer provide coverage to construction sites in the state of Idaho, except for sites located on Indian country lands, or to sites located in the state of Texas that involve the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline, as both states are now fully authorized to issue permits for construction stormwater. Eligible operators in these two states will need to seek permit coverage for their stormwater discharges from their respective state NPDES authority.

B. How can I get copies of these documents and other related information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OW–2021–0169. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. When the EPA Docket Center and Reading Room re-open, publicly available docket materials will be available in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

2. *Electronic Access.* You may access this **Federal Register** document electronically through the United States government on-line source for federal regulations at *http://www.regulations.gov.*

Electronic versions of the final permit and fact sheet are available on EPA's NPDES website at *https://www.epa.gov/npdes/2022-construction-general-permit-cgp.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.regulations.gov* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

C. Who are the EPA regional contacts for this permit?

For EPA Region 1, contact Sania Kamran: Email at *kamran.sania@epa.gov.*

For EPA Region 2, contact Stephen Venezia: Email at *venezia.stephen@epa.gov,* or for Puerto Rico, contact Sergio Bosques: Email at *bosques.sergio@epa.gov.*

For EPA Region 3, contact Carissa Moncavage: Email at *moncavage.carissa@epa.gov.*

For EPA Region 4, contact Michael Mitchell: Email at *mitchell.michael@epa.gov.*

For EPA Region 5, contact Krista McKim: Email at *mckim.krista@epa.gov.*

For EPA Region 6, contact Suzanna Perea: Email at: *perea.suzanna@epa.gov.*

For EPA Region 7, contact Mark Matthews: Email at: *matthews.mark@epa.gov.*

For EPA Region 8, contact Amy Clark: Email at: *clark.amy@epa.gov.*

For EPA Region 9, contact Eugene Bromley: Email at *bromley.eugene@epa.gov.*

For EPA Region 10, contact Margaret McCauley: Email at *mccauley.margaret@epa.gov.*

II. Background of Permit

The CWA establishes a comprehensive program ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' 33 U.S.C. 1251(a). The CWA also includes the objective of attaining ''water quality which provides for the protection and propagation of fish, shellfish and wildlife and * * * recreation in and on the water.'' 33 U.S.C. 1251(a)(2)). To achieve these goals, the CWA requires EPA to control discharges of pollutants from point sources through the issuance of National Pollutant Discharge Elimination System (NPDES) permits.

The Water Quality Act of 1987 (WQA) added Section 402(p) to the CWA, which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. 33 U.S.C. 1342(p). EPA published a final regulation in the **Federal Register**, often called the ''Phase I Rule,'' on November 16, 1990, establishing permit application requirements for, among other things, ''storm water discharges associated with industrial activity.'' See 55 FR 47990. EPA defines the term ''storm water discharge associated with industrial activity'' in a comprehensive manner to cover a wide variety of facilities. See *id.* Construction activities, including activities that are part of a larger common plan of development or

sale, that ultimately disturb at least five acres of land and have point source discharges to waters of the U.S. were included in the definition of ''industrial activity'' pursuant to 40 CFR 122.26(b)(14)(x). The second rule implementing Section 402(p), often called the ''Phase II Rule,'' was published in the **Federal Register** on December 8, 1999. It requires NPDES permits for discharges from construction sites disturbing at least one acre but less than five acres, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre but less than five acres, pursuant to 40 CFR 122.26(b)(15)(i). See 64 FR 68722. EPA issues the 2022 CGP under the statutory and regulatory authorities cited in this section.

NPDES permits for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions to meet technology-based effluent limits established under Section 301 and, where applicable, Section 306. Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) are technology-based effluent limitations that are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Subchapter III of the CWA.

Once a new national standard is established in accordance with these sections, NPDES permits must incorporate limits based on such technology-based standards. See CWA Sections 301 and 306, 33 U.S.C. 1311 and 1316, and 40 CFR 122.44(a)(1). On December 1, 2009, EPA published final regulations establishing technology-based ELGs and NSPS for the Construction & Development (C&D) point source category, which became effective on February 1, 2010. See 40 CFR part 450 and 74 FR 62996. EPA amended the Construction & Development Rule, or ''C&D rule,'' on March 6, 2014 to satisfy EPA's agreements pursuant to a settlement of litigation that challenged the 2009 rule. See 79 FR 12661. All NPDES construction permits issued by EPA or states after this date must incorporate the requirements in the C&D rule.

A. Technology-Based Effluent Limits (TBELs)

The non-numeric effluent limitations in the C&D rule are designed to prevent or minimize the mobilization and discharge of sediment and sediment-bound pollutants, such as metals and nutrients, and to prevent or minimize exposure of stormwater to construction materials, debris, and other sources of pollutants on construction sites. In addition, these non-numeric effluent limitations limit the generation of dissolved pollutants. Soil on construction sites can contain a variety of pollutants such as nutrients, pesticides, herbicides, and metals. These pollutants may be present naturally in the soil, such as arsenic or selenium, or they may have been contributed by previous activities on the site, such as agriculture or industrial activities. These pollutants, once mobilized by stormwater, can detach from the soil particles and become dissolved pollutants. Once dissolved, these pollutants would not be removed by down-slope sediment controls. Source control through minimization of soil erosion is, therefore, the most effective way of controlling the discharge of these pollutants.

The non-numeric effluent limits in the C&D rule, upon which certain technology-based requirements in the final permit are based, include the following:

• *Erosion and Sediment Controls*—Permittees are required to design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed, and maintained to:

1. Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;

2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize channel and streambank erosion, and scour in the immediate vicinity of discharge points;

3. Minimize the amount of soil exposed during construction activity;

4. Minimize the disturbance of steep slopes;

5. Minimize sediment discharges from the site. The design, installation, and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity, and duration of precipitation, the nature of resulting stormwater discharge, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

6. Provide and maintain natural buffers around waters of the United States. Direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;

7. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and

8. Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

• *Soil Stabilization Requirements*—Permittees are required to, at a minimum, initiate soil stabilization measures immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remains disturbed.

• *Dewatering Requirements*—Permittees are required to minimize the discharge of pollutants from dewatering trenches and excavations. Discharges are prohibited unless managed by appropriate controls.

• *Pollution Prevention Measures*—Permittees are required to design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and

3. Minimize the discharge of pollutants from spills and leaks and

implement chemical spill and leak prevention and response procedures.

• *Prohibited Discharges*—The following discharges from C&D sites are prohibited:

1. Wastewater from washout of concrete, unless managed by an appropriate control;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
4. Soaps or solvents used in vehicle and equipment washing.

• *Surface Outlets*—When discharging from basins and impoundments, permittees are required to utilize outlet structures that withdraw water from the surface, unless infeasible.

The accompanying fact sheet details how EPA has incorporated these requirements into the final permit. The discussion in the fact sheet includes a summary of each provision and the agency's rationale for articulating the provision in this way.

B. Water Quality-Based Effluent Limits (WQBELs)

EPA's regulations at 40 CFR 122.44(d)(1) require permitting authorities to include additional or more stringent permit requirements when necessary to achieve water quality standards. The 2022 CGP contains several provisions to protect water quality that were retained from the 2017 CGP. The final permit includes a narrative WQBEL requiring that discharges be controlled as necessary to meet applicable water quality standards. Failure to control discharges in a manner that meets applicable water quality standards is a violation of the permit.

In addition to the narrative WQBEL, the 2022 CGP includes related provisions that act together to protect water quality. For example, the permit requires operators to implement stormwater controls and to take corrective action in response to any exceedance of applicable water quality standards. In addition, the permit requires more stringent site inspection frequencies and stabilization deadlines for construction sites that discharge to those waters that are sediment or nutrient-impaired, which are parameters typically associated with stormwater discharges from construction sites, or waters identified by a state, tribe, or EPA as requiring enhanced protection under antidegradation requirements. In the 2022 CGP, EPA also included an additional water quality-based requirement for dewatering discharges to sediment-impaired and high-quality waters that requires operators to monitor the discharge for turbidity in comparison to a benchmark threshold. This new requirement is discussed in Section III.B.

Additionally, EPA received CWA Section 401 certifications for the final 2022 CGP. Some of those certifications included additional conditions that are required by states, Indian tribes, and territories, pursuant to relevant provisions of the CWA and/or their respective legal authorities. These conditions were incorporated into the permit as legally binding permit limits and requirements in the specific geographic areas that are located within the jurisdiction of the certifying authority.

III. Summary of Final Permit

This section summarizes the most significant modifications that are included in the 2022 CGP relative to the 2017 CGP. The fact sheet for the permit explains in more detail each permit condition and the rationale for any changes to those conditions. The final permit and fact sheet can be found in the docket for this action and at *https://www.epa.gov/npdes/2022-construction-general-permit-cgp.* A comprehensive list of the final changes, as well as the corresponding parts of the permit that are modified, is included in a table in Section III.B of the fact sheet.

The types of final changes in the 2022 CGP generally fall into one of two categories: (1) Changes to improve the clarity of the permit, and (2) changes that added specificity to the permit requirements. The table of modifications in Section III.B of the fact sheet specifies which changes fall under the type (1) category and which fall into the type (2) category. The following sections briefly describe the most significant final changes within these two broad categories.

A. Final Changes That Improve Clarity of the Permit

EPA finalized a number of relatively minor changes that focus on improving the clarity of provisions where operators, EPA compliance staff, or other stakeholders have raised questions. These changes generally do not change the underlying requirement from the 2017 CGP, but rather attempt to make EPA's original intent clearer. These clarifications in the 2022 CGP should improve the overall understanding of the permit's requirements from all perspectives, including the permitting authority, permittees, and the general public.

The final changes to improve clarity include the following:

• *Approved stormwater control and stormwater pollution prevention plan products*—EPA includes new language in the permit to clearly state that the agency does not endorse specific stormwater control or stormwater pollution prevention plan (SWPPP) products or vendors. Industry stakeholders suggested that the permit include such language to help discourage some vendors from misleadingly suggesting that EPA or the permit approves of specific products. See footnotes 13 and 84 in Parts 2.1 and 7.1, respectively, of the permit.

• *Differentiate between routine maintenance and corrective action*—EPA defines routine maintenance as minor repairs or other upkeep performed to ensure the site's stormwater controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control. If a stormwater control needs a significant repair or a new or replacement control is needed, the permit requires that it be treated as a corrective action. This change addresses feedback provided by industry stakeholders who have observed that there is considerable confusion about which maintenance repairs are considered routine versus those that should be treated as corrective actions. Based on comments received on the proposed permit, EPA provided further flexibility for routine maintenance, which cannot be completed by the close of the next business day after the condition requiring maintenance is discovered, by enabling operators to have up to seven days to complete this work. The additional time is conditioned on the operator documenting in the site inspection report why it would be infeasible to finish the work by the close of the next business, and why the repairs or other upkeep should still be treated as routine maintenance. Where the operator finds that the same routine maintenance fix must be repeatedly (*i.e.,* three or more times) made to the same stormwater control at the same location, the operator must complete the work for any subsequent occurrences of the same problem under the corrective action procedures in Part 5 of the permit, or document in the site inspection report why the specific reoccurrence of the problem should still be addressed as a routine maintenance fix. See Parts 2.1.4.b, c, and d, and 5.1.1 of the permit.

• *Include additional stormwater control design considerations*—The CGP requires operators to take into account several factors in designing stormwater

controls that comply with permit conditions. The factors include the expected amount, frequency, intensity, and duration of precipitation. See Part 2.1.1 of the permit. EPA clarifies that the relevant data used must be the most recent data available to account for recent precipitation patterns and trends. EPA also suggests that operators include consideration and contingencies for the implementation of structural improvements, enhanced or resilient stormwater controls, and other mitigation measures to help minimize the stormwater discharge impacts from major storms (*e.g.,* hurricanes, storm surges, extreme precipitation, or flood events) where the site has been exposed to or previously experienced such storms.

• *Clarify factors where infiltration would be infeasible or inadvisable*—The CGP requires that operators direct stormwater to vegetated areas and maximize stormwater infiltration and filtering to reduce pollutant discharges, unless infiltration would be inadvisable due to the underlying geology and groundwater concerns, or infeasible due to site constraints. EPA suggests some of the considerations operators should take into account in determining whether infiltration at a particular site is infeasible or inadvisable, such as factors relating to the underlying soils or geology, hydrology, depth to the groundwater table, proximity to source water protection area(s), or specific contaminant concerns. See Part 2.2.2 and footnote 19 in the permit.

• *Clarify application of perimeter control and natural buffer requirements*—EPA understands from conversations with stakeholders that there is confusion about whether perimeter controls are necessary on the site when the operator is already providing a natural buffer pursuant to the requirements of the permit. To address this confusion, EPA clarifies that perimeter controls must be installed upgradient of any natural buffers except in situations where the perimeter control is being used by the operator to fulfill one of the buffer alternative requirements, in which case the operator would not be required to install a second perimeter control. See Part 2.2.3.a of the permit.

• *Clarify the permit flexibilities for arid and semi-arid areas*—The 2017 CGP maintained from previous CGPs alternative stabilization and inspection schedules for arid and semi-arid areas that are reflective of the different climatic and precipitation conditions that exist in those areas. These stabilization and inspection schedule flexibilities apply during the ''seasonally dry period'' of the year when there is less risk of a discharge-producing storm event. The permit did not previously define the term ''seasonally dry period,'' and EPA has received a number of questions from construction operators over the past several years about what this term means. For this reason, the final 2022 CGP establishes a new definition for seasonally dry period to provide clarity and includes resources in the form of maps and zip code tables to assist construction operators located in an arid or semi-arid area in determining when they may be operating during a seasonally dry period of the year. See Parts 2.2.14.b, 2.2.14.c, and 4.4.2 of the permit, as well as the definition of ''seasonally dry period'' in Appendix A. See also EPA's Seasonally Dry Period Locator Tool at *https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates.*

• *Clarify pollution prevention requirements for construction waste*—The 2022 CGP extends existing pollution control flexibilities that apply to building materials and products in Part 2.3.3.a to certain types of construction wastes in Part 2.3.3.e. Waste containers are not required for the waste remnant or unused portions of any construction materials or final products where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination, provided that these wastes are stored separately from other construction or domestic wastes that do not meet these criteria, are stored in designated areas of the site, and are described in the SWPPP. See Parts 2.3.3.e, 7.2.4.i, and 7.2.6.b.ix of the permit.

• *Clarify proper handling of washing applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials*—The permit includes some additional details based on feedback provided in the public comments regarding how operators should handle washout or cleanout wastes. This includes not allowing liquid wastes to enter site drainage features, not allowing such wastes to be disposed of through infiltration or to otherwise be disposed of on the ground, and complying with applicable state, tribal, or local requirements for disposal. See Part 2.3.4.b of the permit.

• *Clarify requirements for inspections during storm events*—In meetings with stakeholders prior to the proposed permit, and in comments submitted during the public comment period, it has become clear that clarification is needed to better explain the required frequency of inspections during and after storm events. For inspections required in response to storm events producing 0.25 inches of rain within a 24-hour period, EPA provided additional text explaining when inspections are required under different storm length scenarios. See Part 4.2.2.a. For inspections required in response to discharges from snowmelt, the permit adds a numeric inspection threshold for snowfall precipitation that is equivalent to the 0.25-inch rain event to help operators determine when an inspection may be required. This change clarifies that where there is a discharge from snowmelt caused by an accumulation of 3.25 inches or greater of snow within a 24-hour period, an inspection is required. Some operators requested this change and explained to EPA that without a numeric threshold, it is difficult for operators to know which snow events may trigger the need to inspect the site during the winter season. EPA relied on information from the National Oceanic and Atmospheric Administration (NOAA) to derive the 3.25-inch snowfall equivalent to the 0.25-inch rain event. See Part 4.2.2.b of the permit.

• *Availability of stormwater pollution prevention plan (SWPPP), inspection reports, and corrective action log in electronic form*—The 2017 CGP enabled operators to keep their SWPPP, inspection reports, and corrective action records in electronic form, as long as they could be accessed and read by the operator and by any EPA, state, or local inspection authorities in the same manner as a paper copy. EPA heard from permittees, however, who were uncertain about whether the flexibility to keep these documents in electronic form was available to them. EPA acknowledges that part of the problem was that its explanation about retaining documents in electronic form was only included in a frequently asked question section of its construction stormwater website, and was not clearly stated in the 2017 CGP. For this reason, the final 2022 CGP includes text to make it clear that electronic versions of the SWPPP, inspection reports, and corrective action logs may be used as long as they meet certain minimum requirements. See footnotes 76, 78, and 92 to Parts 4.7.3, 5.4.3, and 7.3, respectively, of the permit.

• *Updated process for Endangered Species Act eligibility determinations*—EPA updated Appendix D of the CGP, which establishes procedures for operators to follow in determining their eligibility for coverage with respect to

the protection of endangered and threatened species. The changes to Appendix D are primarily in the form of clarifications to existing procedures or updates to resources that operators can use to determine whether species are located in the ''action area'' of the construction site. EPA finalized similar changes as part of the Endangered Species Act (ESA) consultation it completed as part of its issuance of the 2021 Multi-Sector General Permit (MSGP) for discharges from industrial activities (See Appendix E of the 2021 MSGP at *https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp*). During the ESA consultation on the 2022 CGP and based on EPA's experience with consultation for the 2021 MSGP, EPA agreed to reformat Appendix D and the corresponding Endangered Species Protection section of the electronic NOI in the NPDES eReporting Tool (NeT) into a worksheet-style format. The worksheet breaks apart the procedures, criterion selection, and required supporting documentation into a series of individual questions and fillable answers, rather than long narrative instructions. It is EPA's intention that presenting the ESA procedures in a more dynamic, structured way will help the operator arrive at the correct ESA criterion selection by eliminating ones that do not apply to their site and will ensure that all required supporting documentation is included when submitting the NOI. See Appendix D of the permit, and related information at *https://www.epa.gov/npdes/2022-construction-general-permit-cgp.*

B. Final Changes That Add Specificity to Permit Requirements

EPA finalized select modifications to the permit to address specific problems that have come to the agency's attention during the permit term or to incorporate enhancements that reflect current best practices. These changes are narrowly focused on specific topics. The following is a summary of these changes:

• *Include additional perimeter control installation and maintenance requirements*—Due to the vital role that sediment controls installed along the downslope side of the construction site perimeter play in minimizing sediment discharges, it is important for the CGP requirements related to these controls to reflect best practices that are available, effective, and practicable. Reviewing a number of state permits and best management practice manuals during the development of the proposed and final permit, EPA concluded that some targeted changes to the perimeter control requirements in the CGP are appropriate and warranted at this time. For this reason, EPA finalized additional perimeter control installation and maintenance requirements that are focused on ensuring that these controls continue to work effectively. For example, under the new provision, if there is evidence of stormwater circumventing or undercutting the perimeter control after a storm event, the operator is required to extend the length of the perimeter control or repair any undercut areas, whichever applies. This change is intended to ensure that maintenance of these controls is focused on fixing problems as soon as they are found and making sure they work effectively before the next storm event occurs. See Part 2.2.3 of the permit.

• *Update pollution prevention requirements for chemicals used and stored on site*—EPA finalized changes to the pollution prevention requirements for diesel fuel, oil, hydraulic fuels, or other petroleum products, and other chemicals. These changes respond to feedback EPA received from some permittees who recommended reframing the 2017 CGP permit requirements so they are proportionate to the volume of chemicals being used and stored on the site, and relative to the risk of a spill or leak. EPA agreed that the requirements in this section could be improved by strengthening the linkage between the type of pollution prevention control needed and the volume of chemical containers kept on site. Consistent with this principle, the final permit establishes control requirements that are appropriate for chemical containers with a storage capacity of less than 55 gallons by requiring that the operator use water-tight containers, place them on a spill containment pallet (or similar device) if kept outside, and have a spill kit available at all times and in good working condition, and personnel available to respond quickly to a spill or leak. These controls will be effective at preventing a discharge from a spill or leak, while also having the added advantage of being moved more easily around the site. The final permit also includes controls that are more suitable to larger chemical containers with a storage capacity of 55 gallons or more, such as requiring a temporary roof or secondary containment to prevent a discharge from a leak or spill. Based on public comments, EPA modified the requirements so that they are applied based on the volume of container at the site (*i.e.,* containers with a storage capacity of less than 55 gallons, or 55 gallons or more) versus the proposed approach of applying requirements based on the total volume of chemicals at the site. EPA also added some additional specificity to the final provisions to require that all containers be closed, sealed, and secured when not being actively used. EPA also added an additional flexibility to allow operators with certain site constraints to store larger volume containers as far away from receiving waters, site drainage features, and stormwater inlets as possible if it is infeasible to store them at least 50 feet away. See Part 2.3.3.c of the permit.

• *Specify new dewatering discharge requirements*—EPA finalized several changes to the permit's dewatering requirements to improve compliance and further reduce pollutant loads to receiving waters. EPA has noted violations with the permit's dewatering requirements at sites with controls that are improperly installed and maintained, resulting in significant discharges of sediment and other pollutants to receiving waters. Given the high rate at which dewatered water may be discharged, EPA inspection personnel have observed that it is possible that a site may discharge more sediment in several hours of poorly managed dewatering activities than might otherwise be discharged from a site via stormwater discharges over the entire course of the construction project. Additionally, EPA has found there to be good example provisions from state construction stormwater permits and standalone NPDES dewatering permits that can be used to strengthen the CGP's dewatering conditions.

The final dewatering revisions to the permit add clarity to the existing pollutant control provisions, increase the number of inspections required while the dewatering discharge is occurring, establish a tailored checklist of problems to review during the inspection, and identify specific triggers for when corrective action is required. For example, one new dewatering-related inspection provision requires the operator to check whether a sediment plume, foam, and/or other evidence of pollutants such as a visible sheen or oily deposit on the bottom or shoreline of the receiving water was observed during the inspection at the point of discharge to any receiving water flowing through or immediately adjacent to the site and/or to drainage features. If such pollutant indicators are observed, the permit requires the operator to, among other things, take immediate steps to minimize the discharge of pollutants, including the possibility of shutting off the dewatering discharge depending on the severity of the condition and to ensure that the dewatering controls

being used are operating effectively. During an inspection of the dewatering operation, the operator would also be required to take photographs of (1) the dewatering water prior to treatment by a control(s) and the final discharge after treatment; (2) the dewatering control(s); and (3) the point of discharge to any receiving waters flowing through or immediately adjacent to the site and/or to site drainage features, storm drain inlets, and other conveyances to receiving waters. This documentation will help demonstrate how well the dewatering controls are working and will show where adaptations made after any problems have been found have resulted in improved pollutant control. See Parts 2.4, 4.3.2, 4.6.3, 5.1.5, and 5.2.2 of the permit.

• *Require turbidity benchmark monitoring for sites discharging dewatering water to sensitive waters*—The 2022 CGP requires targeted sampling of dewatering discharges to sediment-impaired waters or waters designated as Tier 2, Tier 2.5 or Tier 3 waters (referred to in the permit as ''sensitive waters''). Under this new requirement, operators must collect at least one turbidity sample of the dewatering discharge each day a discharge occurs and compare the weekly average of the results with a benchmark turbidity value of 50 Nephelometric Turbidity Units (NTU). EPA derived this benchmark threshold based on a review of water quality standards for states and certain territories where EPA is the permitting authority, other NPDES dewatering permit conditions, literature related to the effects of turbidity on aquatic life, and public comments received during the comment period on the proposed 2022 CGP. EPA is also providing operators with the flexibility to request an alternate benchmark for their site that is higher than 50 NTUs if the operator has information demonstrating that the higher number is supported by the receiving water's water quality standard for turbidity.

For clarity, EPA emphasizes that the benchmark threshold for turbidity is not an effluent limit. As such, an exceedance of the benchmark threshold does not itself constitute a permit violation. Rather, the benchmark threshold acts as a warning sign to the operator that changes may be needed in the dewatering controls to improve pollutant removal and protect water quality. Accordingly, if the weekly average of the turbidity samples exceeds the benchmark (or an alternate benchmark based on state WQS), the operator is required to conduct follow-up corrective action designed to lower the turbidity levels in the discharge. The new corrective action provisions for a benchmark exceedance require the operator to immediately take all reasonable steps to minimize or prevent the discharge of pollutants until a solution can be implemented, including safely shutting off the dewatering discharge depending on the severity of the condition; determining whether the dewatering controls are operating effectively and whether they are causing the conditions; and making any necessary adjustments, repairs, or replacements to the dewatering controls to lower the turbidity levels or remove the visible plume or sheen. Operators are also required to report their weekly average turbidity results to EPA on a quarterly basis either electronically using the agency's NeT or the paper form in Appendix K, if EPA grants a waiver from electronic reporting.

For the 2022 CGP, EPA is focused on turbidity monitoring for sensitive waters because sediment is a major cause of impairment of the nation's waters. Excessive sediment can impair waterbody uses such as aquatic life, navigation, recreation, and sources of drinking water. The monitoring requirements for dewatering discharges to sediment-impaired waters will help ensure that such discharges do not further contribute excess pollutants to waters that are impaired for sediment and that existing uses are maintained and protected. Turbidity monitoring will provide operators with a baseline and comparable understanding of dewatering discharge quality, potential water quality problems, and dewatering control measure effectiveness. These data will supplement information provided through the daily inspections during dewatering activities and allow EPA to review the pollutant concentrations in dewatering discharges. See Part 3.3, 5.1.5, and 5.2.2 of the permit.

EPA includes an extensive discussion of the rationale behind the decision to include benchmark monitoring for dewatering discharges to sensitive waters in this permit and a more thorough discussion of the key parts of these requirements. See Section VI, Part 3.3 of the fact sheet. EPA has also provided additional technical assistance resources for operators to use in implementing these provisions. For example, EPA has developed a *Monitoring and Inspection Guide for Construction Dewatering,* available on EPA's website at *https://www.epa.gov/npdes/turbidity-benchmark-monitoring-dewatering-under-construction-general-permit,* which provides guidelines on how to correctly monitor for turbidity, determine if the weekly average exceeds the benchmark, and, if so, how to proceed with corrective action, as well as how to comply with the permit's dewatering inspection requirements. EPA has also compiled a list of all the current state and tribal turbidity water quality standards in effect in areas covered by the CGP, in the event that operators choose to pursue a request for an alternate benchmark. See List of State-Specific Water Quality Standards for Turbidity, available at *https://www.epa.gov/npdes/turbidity-benchmark-monitoring-dewatering-under-construction-general-permit.*

• *Update training requirements for personnel conducting site inspections*—EPA finalized modifications to the training requirements for personnel conducting site inspections. These changes address problems found during many of the agency's own construction site inspections, in which EPA observed that while some permittees are properly conducting inspections and documenting their findings in accordance with the permit, a large number are not. To address this problem, EPA strengthened the training requirements for inspection personnel to ensure their competency to conduct such inspections. For this reason, the permit specifies that a qualified person carrying out inspections must either (1) have completed the new EPA construction inspection course developed for this permit and passed the exam, or (2) hold a current valid construction inspection certification or license from a program that covers essentially the same core material as EPA's inspection course. These new requirements are an extension of what the 2017 CGP (and 2012 CGP) already required for the ''qualified person'' to conduct inspections. EPA is in the process of developing a free construction inspection training program that will be made available as an option to fulfill this new requirement to CGP permittees along with an accompanying exam that, if passed, will provide the person with documentation showing that they have successfully completed the EPA course. EPA is delaying the implementation of the requirement for one year from the permit effective date until the EPA training is available, which the agency anticipates will be in the summer or fall of 2022. For this reason, for construction projects that receive permit coverage prior to February 17, 2023, any personnel conducting site inspections must, at a minimum, be a person knowledgeable in the principles and practice of erosion and sediment

controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and training to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of the permit. Operators will be notified via email when the new 2022 CGP training is available. EPA will also announce the training on its 2022 CGP website (*https://www.epa.gov/npdes/2022-construction-general-permit-cgp*). Documentation that the relevant personnel has completed the EPA course and passed the exam will serve as proof that the operator has met the new inspection training requirements. Alternatively, if the relevant personnel elect to obtain the required training through a different program that covers the same basic principles, the operator will need to provide documentation that these personnel have successfully completed the program and are in possession of a current, valid certification or license. See Parts 4.1, 6.3, and 7.2.2 of the permit.

• *Specify requirements for documenting signs of sedimentation attributable to construction site discharges*—EPA specifies in the permit that during an inspection, operators must check for signs of sediment deposition that are visible from the site and attributable to the operator's discharge, for example sand bars with no vegetation growing on top in adjacent receiving waters or in other constructed or natural site drainage features, or the buildup of sediment deposits on nearby streets, curbs, or open conveyance channels. This change is intended to address a frequent problem observed during EPA's compliance inspections that the permittee does not document obvious signs of sedimentation in the receiving water or in drainage features that convey to receiving waters. The intent of this addition is to emphasize that the site inspection is an ideal time to examine whether there are any obvious signs of sedimentation attributable to the site's discharges, and to require documentation of such sedimentation. EPA notes that the CGP already requires operators to check for signs of visible erosion and sedimentation (*i.e.,* sediment deposits) that have occurred and are attributable to the operator's discharge at points of discharge and, if applicable, on the banks of any receiving waters. flowing within or immediately adjacent to the site. See Part 4.6.1.e of the permit.

• *Require photo documentation of adequate site stabilization*—EPA's compliance inspectors have observed cases when operators prematurely terminate coverage under the CGP before the site is properly stabilized. The final permit adds a new provision requiring operators as part of their Notice of Termination (NOT) to take and submit photographs showing the stabilized areas of the site following completion of construction. EPA includes this requirement primarily as an additional level of documented evidence that operators are complying with the stabilization requirements prior to terminating coverage. Given the importance of stabilization to preventing continuing erosion and sedimentation, EPA views the additional photo documentation requirement to be a relatively inexpensive, effective, and straightforward way for the operator to show the agency that it has complied with the permit's final stabilization requirements. See Part 8.2.1.a of the permit. Related to this new requirement, EPA added a check box to the NOT form to confirm that the operator has attached photographs as required by Part 8.2.1.a, including the date each photograph was taken, and a brief description of the area of the site captured by the photograph.

• *Add new Notice of Intent (NOI) questions*—EPA added new questions to the NOI form that construction operators will use to obtain coverage under the 2022 CGP. One question asks operators if dewatering water will be discharged during the course of their permit coverage. While EPA suspects that most CGP-covered projects discharge dewatering water during construction, it is useful to the agency to know what the prevalence of this practice is at its permitted sites. This question will provide a straightforward way of compiling information broadly about permittees and enable EPA to know which operators may be affected by the permit's new dewatering requirements. A follow-up question asks operators who indicate that there will be a dewatering discharge to identify if their site is located on a current or former remediation site. This question is intended to provide EPA with additional information regarding sites and their potential for contaminated discharge. Another question asks the operator completing the NOI whether there are other operators who are also covered by the CGP at the same site and, if so, what their NPDES ID numbers are. Because the 2017 CGP NOI did not ask the operator to indicate whether there are multiple operators permitted for the same site, EPA is often unable to easily determine who all the permitted entities are at larger projects and whether there may be some parties that should have obtained permit coverage as operators but have yet to do so. The NOI form also includes a new question that requires the operator to confirm that any personnel conducting inspections at the site will meet the modified training requirements in Part 6 of the permit. EPA also finalized clarifying edits to better explain the types of documentation that are needed for several of the eligibility criteria. As mentioned in Section III.A in the summary of the ''Updated process for Endangered Species Act eligibility determinations,'' EPA has also reformatted the Endangered Species Protection section of the electronic NOI, which now consists of questions that were previously contained in narrative instructions in Appendix D along with updated links to available mapping tools to assist operators in determining whether any listed or threatened species are known to occur in the action area of their site.

IV. Provisions Not Finalized in the 2022 CGP

After further consideration and evaluation of public comments received, the following changes that were considered in requests for comment in the proposed permit were not modified or finalized in the 2022 CGP:

1. *Modifying the definition of operator*—In the 2022 CGP, EPA retains the 2017 CGP definition of ''operator.'' EPA had requested comment on modifying the definition of operator to specifically include parties that determine acceptance of work and pay for work performed. Many public comments indicated that such a change was not necessary, and other comments requested additional details be added if the change was made. EPA has some concerns about the effects of changing the definition of operator and that it may become too specific or too prescriptive. The agency has determined, at this time, that the existing definition is broad enough to capture those parties intended to be addressed by the possible change. Due to the highly case-specific nature of construction projects, EPA prefers to rely on the language of the definition alone, rather than including more specific examples in the definition, and to leave the determination of which parties in any particular scenario are functioning as operators to a project-by-project evaluation. However, the 2022 CGP Fact Sheet has been updated to describe examples of the types of

decision-making activities that EPA frequently finds equate to operational control within the permit's definition of operator. See Section VI, Part 1.1 of the permit fact sheet.

2. *Prohibition of dewatering discharges from contaminated sites*—In the 2022 CGP, EPA includes a clarification that discharges of construction dewatering water must be uncontaminated. In the context of authorized non-stormwater discharges, this means that the discharge meets applicable water quality standards. EPA had proposed that dewatering water discharged from a contaminated site be considered a prohibited discharge under the CGP and had requested comment on whether additional sites should be prohibited from coverage under the permit due to the possibility of discharging dewatering water that is contaminated. Ultimately, EPA decided not to finalize this change based on the compelling public comments received that recommended against this approach and focused on the need for the permit to only authorize those dewatering discharges that are uncontaminated because they meet applicable water quality standards. Additionally, requiring dewatering discharges to be uncontaminated to be authorized under the CGP, as opposed to focusing exclusively on whether the dewatering discharge is extracted from a contaminated site, is consistent with how EPA authorizes other types of non-stormwater discharges that must be uncontaminated.

3. *Waiting Period for Discharge Authorization*—In the 2022 CGP, EPA retains the 14-day authorization waiting period from the 2017 CGP. EPA had requested comment on whether to extend the waiting period between the operator's submittal of the NOI and the authorization to discharge from 14 days to 30 days to facilitate review of the site's eligibility related to the protection of endangered or threatened species. Almost all public comments opposed this change, citing that it would cause further delays to already tight construction deadlines. Comments also pointed out that the permit already allows EPA to delay discharge authorization (*i.e.,* putting an NOI ''on hold'') if there are issues or concerns related to the project's discharges or the impact on threatened or endangered species, thereby providing the agency and other federal agencies additional time where needed to review a particular site.

4. *Stabilization deadlines*—In the 2022 CGP, EPA retains the stabilization thresholds and deadlines from the 2017 CGP. EPA had requested feedback on whether the 5-acre disturbance threshold for stricter stabilization deadlines has had the intended effect of encouraging the phasing of construction disturbances. Some public comments recommended keeping the requirement as is, while others noted that the incentive of an additional seven days to stabilize is not enough of an incentive to phase disturbances. Other comments suggested alternatives to longer stabilization deadlines, such as increasing the disturbance threshold from 5 acres to 25 acres, requiring a phasing plan instead of a disturbance threshold, or establishing a disturbance threshold based on percentage of total land being developed. EPA had also requested comment on whether there was merit to capping total construction disturbances for all operators at 10 acres at any one time, similar to some state CGPs. EPA received mixed comments that both opposed and supported this approach. EPA did not receive sufficiently consistent feedback to justify making a change to the existing requirement or to remove the requirement entirely at this time. In future permits, EPA will continue to look for opportunities and alternatives to incentivize construction site sequencing.

V. Implementation Assistance

Following issuance of the 2022 CGP, EPA plans to provide further assistance to construction site operators and other interested parties on various aspects of this new permit. The following activities or documents are planned:

1. Final permit webinar—EPA will host a webinar on February 24 at 1:00 p.m. (Eastern Time Zone) that will provide an overview of the 2022 CGP and an opportunity for participants to ask questions. Those interested may register for the webinar at *https://www.zoomgov.com/webinar/register/WN_DsNwf8dQTzC1pCk0HCyVnQ.* Further details on the webinar, including a post-webinar recording, will be made available at *https://www.epa.gov/npdes/2022-construction-general-permit-cgp.*

2. Updated SWPPP, Inspection Report, and Corrective Action Log templates—EPA provides the following updated templates that can be used to comply with 2022 CGP requirements: *Construction Stormwater Pollution Prevention Plan (SWPPP) Template, Inspection Report Template,* and *Corrective Action Log Template.* EPA has also developed a new *Dewatering Inspection Report Template* to assist operators in documenting information required for dewatering inspections in Part 4.6.3 of the permit. See *https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates* for more details.

3. eReporting resources—EPA plans to update or provide new tutorials and training materials for how to submit forms and data to EPA via NeT–CGP. These materials will be available at the NeT Help Center web page under ''EPA CGP'' located at *https://epanet.zendesk.com/hc/en-us.*

4. Small residential lot resources—EPA plans to update the Small Residential Lot SWPPP template and guidance brochure to be consistent with the 2022 CGP requirements.

5. Turbidity monitoring guide—EPA has developed a companion guide for the permit's new dewatering inspection and turbidity monitoring requirements. The document, *Monitoring and Inspection Guide for Construction Dewatering,* is available at *https://www.epa.gov/npdes/turbidity-benchmark-monitoring-dewatering-under-construction-general-permit.*

6. List of Tier 2, 2.5, and 3 waters—EPA has updated the 2017 CGP's list of Tier 2, 2.5, and 3 waters to assist operators in identifying whether their discharge may be subject to additional inspection, stabilization, and dewatering requirements. In past CGPs, this list was maintained as an appendix to the permit, but has been moved to *https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates* so that it is easier to find and update.

7. List of state and tribal water quality standards for turbidity—EPA has established a list of applicable turbidity standards that are currently in effect in the states and tribes, as well as the citations that can be used for the requests. See *https://www.epa.gov/npdes/turbidity-benchmark-monitoring-dewatering-under-construction-general-permit.*

8. Seasonally Dry Period Locator Tool—EPA developed a tool that operators can use to if their construction project site is in an arid or semi-arid area, and if any months out of the year are considered seasonally dry. This is important for operators who may be subject to different inspection and stabilization schedules due to their location. The *Seasonally Dry Period Locator Tool* can be found at *https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates.*

VI. Paperwork Reduction Act (PRA)

The information collection activities in this permit have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The

Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR No. 2686.01, OMB Control No. 2040–NEW. You can find a copy of the ICR in the docket for this permit (Docket ID No. EPA–HQ–OW–2021–0169), and it is briefly summarized here.

CWA section 402 and the NPDES regulations require collection of information primarily used by permitting authorities, permittees (operators), and EPA to make NPDES permitting decisions. The burden and costs associated with the entire NPDES program are accounted in an approved ICR (EPA ICR number 0229.23, OMB control no. 2040–0004). Certain changes in this permit require revisions to the ICR to reflect changes to the forms and other information collection requirements. EPA is reflecting the paperwork burden and costs associated with this permit in a separate ICR instead of revising the existing ICR for the entire program for administrative reasons.

EPA is collecting new information as part of the 2022 CGP. The NOI form was updated from the 2017 CGP to collect new information related to the following: Added one new question related to whether operators will be discharging construction dewatering water during the course of their permit coverage, and, if so, whether the site they are discharging from is a current or former federal or state remediation site; added questions about whether there are other operators who are also covered by the CGP at the same site and, if so, what their NPDES ID numbers are; added a check box for the operator to confirm that any personnel conducting inspections at the site will meet the modified training requirements in Part 6 of the permit; and added clarifying edits to better explain the types of documentation that are needed for several of the eligibility criteria related to endangered and threatened species and edits to provide links to updated available mapping tools to assist operators in determining whether any such species are known to occur in the vicinity of their project.

EPA developed new electronic and paper turbidity monitoring forms for operators subject to the Part 3.3 requirements for dewatering discharges to sensitive waters to use in reporting their weekly average turbidity results. This reporting will occur on a quarterly basis until the dewatering discharge has been discontinued.

EPA added one check box for operators who are submitting an ''NOT'' to confirm that the operator has attached photographs taken to document compliance with the final stabilization requirements pursuant to Part 8.2.1.a.

Respondents/affected entities: Construction operators in the areas where EPA is the NPDES permitting authority.

Respondent's obligation to respond: Compliance with the CGP's information collection and reporting requirements is mandatory for CGP operators.

Estimated number of respondents: EPA estimates that for the duration of the three-year ICR period approximately 7,800 operators will obtain coverage under the 2022 CGP, or 2,600 operators per year.

Frequency of response: Response frequencies in the 2022 CGP vary from once per permit term to quarterly.

Total estimated burden: EPA estimates that the information collection burden of the 2022 CGP is 142,511 hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: EPA estimates that the final information collection cost of the 2022 CGP is $9,637,018 per year.

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 OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. EPA responded to ICR-related comments in the Response to Comments document for this final permit.

VII. 2022 CGP Incremental Cost Analysis and Future Cost-Benefit Considerations

The cost analysis accompanying this final permit monetizes and quantifies certain incremental cost impacts of the final permit changes as compared to the 2017 CGP. EPA analyzed each change in the 2022 CGP considering the previous permit's (*i.e.,* the 2017 CGP) requirements. The objective of this incremental cost analysis is to show where or to what extent the final 2022 CGP requirements impose an incremental increase in administrative and compliance costs (such as the cost to conduct site inspections or to prepare compliance reports) on operators in relation to costs that are already accounted for in the 2017 CGP.

More broadly, EPA notes that additional unquantified costs and benefits result from this action. In developing the next CGP (or another NPDES general permit, as appropriate), EPA plans to estimate the broader impacts arising from these actions, including costs and benefits. Estimates under consideration may include: (1) Assessing how costs and benefits are attributed between the CGP and applicable water quality standards (including TMDLs) that may be in effect; (2) developing a new modeling framework to assess how regulated entities understand and implement pollutant controls related to existing and new permit obligations; (3) examining whether any underlying cost and benefit assumptions need to be updated; (4) examining more broadly how EPA can analyze benefits when developing permits; (5) developing more robust approaches to assessing uncertainties associated with the analytic approaches, including how to quantitatively assess uncertainties of key assumptions; and (6) developing a framework to analyze the effect of cooperative federalism.

EPA expects the incremental cost impact on entities that will be covered under the 2022 CGP, including small businesses, to be minimal. EPA anticipates the approximate average annual incremental cost increase (compared to the 2017 CGP) will be $1,292 per year for each permitted project, and the total annual incremental cost to be $3,979,000 based on an estimated 3,080 projects per year. A copy of EPA's incremental cost analysis for the final permit, titled ''Incremental Cost Impact Analysis for the 2022 Construction General Permit (CGP),'' is available in the docket (Docket ID No. EPA–HQ–OW–2021–0169).

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations will be documented in the docket for this action (Docket ID No. EPA–HQ–OW–2021–0169).

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

At proposal, EPA made the preliminary determination that this permit will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the requirements in the permit apply equally to all construction projects that disturb one or more acres (or are part of a larger common plan of development that disturbs one or more acres) in areas where EPA is the permitting authority, and the erosion and sediment control provisions increase the level of

environmental protection for all affected populations over the 2017 CGP. EPA requested comments on this preliminary determination and/or any modifications that EPA should make to the proposed permit to address environmental concerns. EPA received no comments directly applicable to the request for feedback. Therefore, in the absence of comments that contradict the preliminary determination, EPA finds that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. With limited exceptions, EPA directly implements the NPDES program in Indian country as no tribe has yet obtained EPA authorization to administer the NPDES program. As a result, almost all eligible facilities with stormwater discharges from construction activities in Indian country fall under EPA's CGP or may be covered under an individual NPDES permit issued by EPA.

EPA consulted with tribal officials under EPA's Policy on Consultation and Coordination with Indian Tribes early in the process of developing this permit to have meaningful and timely input into its development to gain an understanding of and, where necessary, to address the tribal implications of the permit. During this consultation, EPA conducted the following activities:

- August 13, 2020—EPA initiated a tribal consultation and coordination process for this action by sending a ''Notice of Consultation and Coordination'' letter to all 573 federally recognized tribes. The letter invited tribal leaders and designated consultation representative(s) to participate in the tribal consultation and coordination process. The consultation period was from August 13, 2020 to October 27, 2020.
- September 9, 2020—EPA participated in the National Tribal Water Council monthly conference call and received written comments in response.
- September 16, 2020—EPA led an informational webinar to provide an overview of the 2017 CGP and information regarding the ongoing consultation to the National Tribal Caucus. A total of 34 tribal representatives attended.
- June 24, 2021—EPA hosted an information webinar for tribal representatives on the proposed 2022 CGP. A total of 41 participants attended.

EPA received comments providing input from tribes. These comments are described in EPA's tribal consultation summary, which is can be accessed at *https://www.epa.gov/dockets* in the docket for this permit (refer to Docket ID No. EPA–HQ–OW–2021–0169). In addition, EPA received comments during the September 16, 2020 informational webinar and a September 9, 2020 National Tribal Water Council monthly conference call with EPA staff. EPA also received comments on the proposed permit, which the agency considered as part of the finalization of this permit. EPA's responses to comments can be found *https://www.epa.gov/dockets* in the docket for this permit (refer to Docket ID No. EPA–HQ–OW–2021–0169).

EPA also notes that as part of the finalization of this permit, the agency completed the Section 401 certification procedures with all applicable tribes where this permit applies (see Appendix B). EPA hosted two CWA Section 401 pre-filing meetings for tribes on the proposed 2022 CGP prior to requesting CWA Section 401 certification, as required. These meetings provided certifying tribes an opportunity to meet with EPA about the proposed permit before completing their certification. For the first meeting on June 3, 2021, there were 20 tribal representatives who signed up to participate, and for the second meeting on June 17, 2021 there were 24 representatives who signed up. EPA plans to provide email notification to all tribes of the final 2022 CGP.

As required by section 7(a) of the Executive Order, the EPA's Tribal Consultation Official has certified that the requirements of the executive order have been met in a meaningful and timely manner. A copy of the certification is included in the docket for this action.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This is a renewal of a stormwater discharge permit for construction sites and was submitted to OMB for review.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Deborah Szaro,
Acting Regional Administrator, EPA Region 1.
Javier Laureano,
Director, Water Division, EPA Region 2.
Carmen Guerrero-Perez,
Director, Caribbean Environmental Protection Division, EPA Region 2.
Catherine A. Libertz,
Director, Water Division, EPA Region 3.
Jeaneanne Gettle,
Director, Water Division, EPA Region 4.
Tera Fong,
Director, Water Division, EPA Region 5.
Charles W. Maguire,
Director, Water Division, EPA Region 6.
Jeffery Robichaud,
Director, Water Division, EPA Region 7.
Darcy O'Connor,
Director, Water Division, EPA Region 8.
Tomás Torres,
Director, Water Division, EPA Region 9.
Daniel D. Opalski,
Director, Water Division, EPA Region 10.

[FR Doc. 2022–01258 Filed 1–21–22; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2021–0951; FRL–9474–01–OAR]

Withdrawal of Broadly Applicable Alternative Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal.

SUMMARY: This notice announces the withdrawal of broadly applicable alternative test method approval decisions for Alternatives 125 and 127 (or ALT–125 and ALT–127) that the Environmental Protection Agency (EPA) made in 2018 under Standards of Performance for New Residential Wood Heaters.

DATES: The withdrawal of the broadly applicable alternative test methods ALT–125 and ALT–127 will become effective February 23, 2022.

FOR FURTHER INFORMATION CONTACT: Electronic copies of supporting documents for both alternative test method withdrawals are available at Docket ID No. EPA–HQ–OAR–2021–0951. For questions about this notice, contact Mrs. Lula H. Melton, Air Quality Assessment Division, Office of Air Quality Planning and Standards (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711;

telephone number: (919) 541–2910; fax number: (919) 541–0516; email address: *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This notice will be of interest to entities regulated under 40 CFR part 60, subpart AAA—Standards of Performance for New Residential Wood Heaters; state, local, and tribal agencies; and the EPA Regional offices responsible for implementation and enforcement of regulations under 40 CFR part 60, subpart AAA—Standards of Performance for New Residential Wood Heaters.

B. How can I get copies of this information?

You may access copies of documents supporting our broadly applicable alternative test method withdrawal decision at Docket ID No. EPA–HQ–OAR–2021–0951.

II. Background

The Administrator has the authority to approve the use of alternative test methods for compliance with requirements under 40 CFR parts 60, 61, and 63. This authority is found in 40 CFR 60.8(b)(3), 61.13(h)(1)(ii), and 63.7(e)(2)(ii). Additional and similar authority can be found in 40 CFR 59.104(f) and 65.158(a)(2). The criteria for approval and procedures for submission and review of broadly applicable alternative test methods are explained in a previous **Federal Register** notice published at 72 FR 4257 (January 30, 2007) and located at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods.* As explained in this notice, we will announce approvals for broadly applicable alternative test methods at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods* as they are issued and publish an annual notice that summarizes approvals for broadly applicable alternative test methods during the preceding year.

This notice relates to two broadly applicable alternative test methods that EPA approved in 2018 for Standards of Performance for New Residential Wood Heaters, 40 CFR part 60, subpart AAA. Specifically, ALT–125 allowed for the use of ASTM E3053–17 and ASTM E2515–11, both with the changes specified in the Agency's approval letter dated February 28, 2018 (revised on August 22, 2018), and Canadian Standards Administration (CSA) Method CSA–B415.1–10, as an alternative to test methods and procedures for certification of standards that are contained in 40 CFR 60.534. Similarly, as an alternative to 40 CFR 60.534, ALT–127 allowed the use of ASTM E3053–17 and ASTM E2515–11, both with the changes specified in the Agency's approval letter dated April 13, 2018, and CSA Method CSA–B415.1–10. Further, alternatives 125 and 127 were included in the **Federal Register** notice published on March 4, 2019 (84 FR 7363).

III. Withdrawal of Approved Alternative Test Methods

As explained in our January 30, 2007 notice, we will revisit approvals of alternative test methods in response to written requests or objections indicating that a particular approved alternative test method either should not be broadly applicable or that its use is not appropriate or should be limited in some way. Any objection to a broadly applicable alternative test method, as well as the resolution of that objection, will be announced at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods* and in a subsequent **Federal Register** notice.

On April 28, 2021, the Alaska Department of Environmental Conservation (Alaska) requested that the Office of Air Quality Planning and Standards (OAQPS) withdraw previously approved broadly applicable alternative test methods ALT–125 and ALT–127, which, as earlier explained, are used for compliance test purposes to certify residential wood heaters pursuant to 40 CFR part 60, subpart AAA. According to Alaska, ASTM E3053–17 provides too much flexibility such that a test lab, while conducting compliance testing, may ''explore'' avenues within the test method in order to find approaches for passing any appliance, regardless of design, ultimately resulting in a certification program where a manufacturer simply pays the lab to provide a passing test, rather than objectively measure the actual emissions from their appliance. Further, on May 21, 2021, nine State Attorneys General requested OAQPS to withdraw both ALT–125 and ALT–127 citing a recent Northeast States for Coordinated Air Use Management (NESCAUM) report that found serious concerns with EPA's implementation of subpart AAA and QQQQ certification programs. In addition, in July, August, and September of 2021, Alaska submitted seven test reports to OAQPS in support of their withdrawal request. For more detailed information, please refer to the supporting documents available at Docket ID No. EPA–HQ–OAR–2021–0951.

After a thorough review and evaluation of these requests as well as data from Alaska's test reports, on December 20, 2021, OAQPS decided to formally withdraw ALT–125 and ALT–127 as broadly applicable alternative test methods for Standards of Performance for New Residential Wood Heaters, 40 CFR part 60, subpart AAA. This **Federal Register** notice formalizes our withdrawal of Alternatives 125 and 127 as broadly applicable alternative test methods and announces the removal of both test methods from the Broadly Applicable Approved Alternative Test Methods web page.

The withdrawal of the broadly applicable alternative test methods ALT–125 and ALT–127 will become effective February 23, 2022. Certification tests completed prior to the effective date using ALT–125 or ALT–127 for residential wood heater applications pursuant to 40 CFR part 60, subpart AAA will be considered valid if otherwise meeting all certification requirements of the subpart (40 CFR 60.531).

Certification tests using ALT–125 or ALT–127 completed after the effective date for withdrawal of these alternative test methods will not be valid certification tests pursuant to 40 CFR 60.531 and 60.534(a)(2).

Renewal or recertification of a wood heater model line that was previously certified using ALT–125 or ALT–127 will not be granted a waiver from certification testing pursuant to 40 CFR 60.533(i)(2) or 60.533(k)(1) and must be retested using a valid test method at the time of application for renewal or recertification.

Dated: January 19, 2022.

Richard A. Wayland,

Director, Air Quality Assessment Division.

[FR Doc. 2022–01298 Filed 1–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0318; FRL–9098–01–OCSPP]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Request for Contractor Access to Toxic Substances Control Act (TSCA) Confidential Business Information (CBI)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on the following Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB): ''Request for Contractor Access to TSCA Confidential Business Information (CBI),'' identified by EPA ICR No. 1250.12 and OMB Control No. 2070–0075. This ICR represents the renewal of an existing ICR that is currently approved through October 31, 2022. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before March 25, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0318, through the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Office of Program Support, Mission Support Division (7101M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1204; email address: *sleasman.katherine@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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 submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Request for Contractor Access to TSCA Confidential Business Information (CBI).

EPA ICR No.: 1250.12.

OMB Control No.: 2070–0075.

ICR status: This ICR is currently approved through October 31, 2022. Under the PRA, 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 OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA procures contract support to facilitate the performance of certain duties that may require contractors to handle TSCA CBI. Each contractor employee who will use TSCA CBI in the performance of his or her duties must be authorized for access to TSCA CBI through a multi-step process. The TSCA CBI Protection Manual provides Federal and contractor employees with guidelines and operating procedures for handling TSCA CBI while performing their official duties, as well as the procedures to obtain authorization for access to TSCA CBI.

Specifically, for purposes of this information collection, contractor personnel must submit to EPA the form entitled ''TSCA CBI Access Request, Agreement, and Approval'' (EPA Form 7740–6). EPA uses Form 7740–6 to collect information about contractor personnel so that EPA can evaluate their suitability for access to TSCA CBI. EPA stores the information on the OPPT Chemical Information System.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.6 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/affected entities: The following North American Industrial Classification System (NAICS) codes have been provided to assist in determining whether this action might apply to certain entities: NAICS codes 514 (Information Services) and 561 (Administrative and Support Services).

Respondent's obligation to respond: Mandatory; 15 U.S.C. 2614.

Frequency of response: On occasion.

Total estimated number of potential respondents: 23.

Total estimated average number of responses for each respondent: 214.

Total estimated annual burden hours: 340.8 hours.

Total estimated annual costs: $19,740. This includes an estimated burden cost of $19,740 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is no increase in number of hours in the estimated total annual burden and costs compared with that identified in the ICR currently approved by OMB. This increase in estimates results from an increase in the hourly wages and a change in the methodology to calculate loaded wages (wages plus fringe benefits and overhead). This change is an adjustment.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions

established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. The Agency does not expect this change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

(Authority: 44 U.S.C. 3501)

Dated: January 19, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–01295 Filed 1–21–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0466; FR ID 68396]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 25, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0466.

Title: Sections 74.783, 73.1201 and 74.1283, Station Identification.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 28,323 respondents; 28,323 responses.

Estimated Time per Response: 0.166–1 hour.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or maintain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

Total Annual Burden: 26,715 hours.

Total Annual Costs: None.

Needs and Uses: The information collection requirements for this collection are as following: 47 CFR 73.1201(a) requires television broadcast licensees to make broadcast station identification announcements at the beginning and ending of each time of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

47 CFR 74.783(b) requires licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

47 CFR 73.1201(b)(1) requires that the official station identification consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location. The name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. Digital Television (DTV) stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify a High Definition Television (HDTV) program service and 26.2 to identify a Standard Definition Television (SDTV) program service. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible. A station may include in its official station identification the name of any additional community or communities, but the community to which the station is licensed must be named first.

47 CFR 74.783(e) permits low power TV permittees or licensees to request to be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs.

47 CFR 74.1283(c)(1) requires a FM translator station licensee whose identification is made by the primary station must arrange for the primary station licensee to furnish the translator's call letters and location (name, address, and telephone number of the licensee or service representative)

to the FCC. The licensee must keep this information in the primary station's files.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–01206 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0473 and OMB 3060–0423; FR ID 68394]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 25, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0473.

Title: Section 74.1251, Technical and Equipment Modifications.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 100 respondents; 300 responses.

Estimated Time per Response: 0.25 hour.

Frequency of Response: Recordkeeping requirement; One-time reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contain in Sections 154(i) and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 75 hours.

Total Annual Cost: None.

Needs and Uses: The information collection requirements contained in 47 CFR 74.1251(b)(1) state that formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes: Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been certificated by the FCC for use by FM translator or FM booster stations, or any change which could result in the electrical characteristics or performance of the station. Upon the installation or modification of the transmitting equipment for which prior FCC authority is not required under the provisions of this paragraph, the licensee shall place in the station records a certification that the new installation complies in all respects with the technical requirements of this part and the terms of the station authorization.

The information collection requirements contained in 47 CFR 74.1251(c) require FM translator licensee to notify the FCC, in writing, of changes in the primary FM station being retransmitted.

OMB Control Number: 3060–0423.

Title: Section 73.3588, Dismissal of Petitions to Deny or Withdrawal of Informal Objections.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 20 minutes.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 17 hours.

Total Annual Cost: $63,750.

Needs and Uses: The information collection requirements contained in 47 CFR 73.3588 state whenever a petition to deny or an informal objection has been filed against any applications for renewal, new construction permits, modifications, and transfers/assignments, and the filing party seeks to dismiss or withdraw the petition to deny or the informal objection, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal. This request must include the following documents: (1) A copy of any written agreement related to the dismissal or withdrawal, (2) an affidavit stating that the petitioner has not received any consideration in excess of legitimate and prudent expenses in exchange for dismissing/withdrawing its petition, (3) an itemization of the expenses for which it is seeking reimbursement, and (4) the terms of any oral agreements related to the dismissal or withdrawal of the petitions to deny. Each remaining party to any written or oral agreement must submit an affidavit within 5 days of petitioner's request for approval stating that it has paid no consideration to the petitioner in excess of the petitioner's legitimate and prudent expenses. The affidavit must also include the terms of any oral agreements relating to the dismissal or withdrawal of the petition to deny.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–01207 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0166; FR ID 67770]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 22, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0166.

Title: Part 42, Section 42.6, Preservation of Records of Communications Common Carriers.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 49 respondents; 49 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220.

Total Annual Burden: 98 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The respondents are instructed on the appropriate procedures to follow to safeguard information deemed confidential under 47 CFR 0.457 of the Commission's rules, which details the type of records that are not routinely available for public inspection. Section 0.459 of the Commission's rules contains procedures for requesting that material and information submitted to the Commission be withheld from public inspection.

Needs and Uses: Section 42.6 requires a carrier to retain for eighteen months to assist the Department of Justice in its law enforcement activities telephone toll records that provide the billing information about telephone toll calls: The name, address, and telephone number of the caller, telephone number called, date, time and call length.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–01208 Filed 1–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2022–02]

Filing Dates for the California Senate Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: California has scheduled special elections on June 7, 2022, and November 8, 2022, to fill the remainder of Vice President Kamala Harris' unexpired U.S. Senate term, which ends on January 3, 2023. Committees required to file reports in connection with the Special Primary Election on June 7, 2022, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and the Special General Election on November 8, 2022, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the California Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on May 26, 2022; a 12-day Pre-General Report on October 27, 2022; and a 30-day Post-General Report on December 8, 2022. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the California Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the California Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the California special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling threshold during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

The lobbyist bundling disclosure threshold for calendar year 2021 was $19,300. This threshold amount may change in 2022 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the **Federal Register** and

post it on its website. 11 CFR 104.22(g) and 110.17(e)(2).

CALENDAR OF REPORTING DATES FOR CALIFORNIA SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Political Committees Involved in *Only* the Special Primary (06/07/2022) Must File			
Pre-Primary	05/18/2022	05/23/2022	05/26/2022
July Quarterly	06/30/2022	07/15/2022	07/15/2022
Political Committees Involved in Both the Special Primary (06/07/2022) and Special General (11/08/2022) Must File			
Pre-Primary	05/18/2022	05/23/2022	05/26/2022
July Quarterly	06/30/2022	07/15/2022	07/15/2022
October Quarterly	09/30/2022	10/15/2022	[2] 10/15/2022
Pre-General	10/19/2022	10/24/2022	10/27/2022
Post-General	11/28/2022	12/08/2022	12/08/2022
Year-End	12/31/2022	01/31/2023	01/31/2023
Political Committees Involved in *Only* the Special General (11/08/2022) Must File			
Pre-General	10/19/2022	10/24/2022	10/27/2022
Post-General	11/28/2022	12/08/2022	12/08/2022
Year-End	12/31/2022	01/31/2023	01/31/2023

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: January 18, 2022.

On behalf of the Commission.

Allen J. Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–01203 Filed 1–21–22; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, January 27, 2022 at 10:00 a.m.

PLACE: Virtual Meeting. Note: Because of the COVID–19 pandemic, we will conduct the open meeting virtually. If you would like to access the meeting, see the instructions below.

STATUS: This meeting will be open to the public. To access the virtual meeting, go to the Commission's website *www.fec.gov* and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Draft Advisory Opinion 2021–13: Matthew P. Hoh

Proposed Rule of Agency Procedure Concerning Foreign State Respondents

Audit Division Recommendation Memorandum on the Connecticut Democratic State Central Committee (A19–19)

Proposed Final Audit Report on the Republican Party of Minnesota—Federal (A19–09)

Audit Division Recommendation Memorandum on the Democracy Engine, Inc., PAC (A19–18)

Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, telephone: (202) 694–1220.

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2022–01435 Filed 1–20–22; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meetings

TIME AND DATE: January 27, 2022; 10:00 a.m.

PLACE: This meeting will be held by video-conference only.

STATUS: Part of the meeting will be open to the public and available to view streamed live, accessible from *www.fmc.gov.* The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Commissioner Bentzel, Maritime Transportation Data Initiative
2. Staff Update on Vessel-Operating Common Carrier Audit Program
3. Area Representative Regional Activity Updates

Portions Closed to the Public

1. Staff Update on Vessel-Operating Common Carrier Audit Program
2. Area Representative Regional Activity Updates
3. Staff Briefing on Detention and Demurrage Billing
4. Investigation into Conditions Created by Canadian Ballast Water Regulations in the U.S./Canada Great Lakes Trade

CONTACT PERSON FOR MORE INFORMATION: William Cody, Secretary, (202) 523–5725.

William Cody,

Secretary.

[FR Doc. 2022–01351 Filed 1–20–22; 11:15 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Report of Selected Money Market Rates (FR 2420; OMB No. 7100–0357). The revisions are effective with the September 1, 2022, as of date.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Report title: Report of Selected Money Market Rates.

Agency form number: FR 2420.

OMB control number: 7100–0357.

Effective Date: September 1, 2022, as of date.

Frequency: Daily.

Respondents: Commercial banks, savings associations, U.S. branches and agencies of foreign banks, international banking facilities, and significant banking organizations representing entities actively participating in the federal funds and/or other money markets.

Estimated number of respondents: Commercial banks, savings associations, U.S. branches and agencies of foreign banks, and significant banking organizations, 181; international banking facilities, 77.

Estimated average hours per response: Commercial banks, savings associations, U.S. branches and agencies of foreign banks, and significant banking organizations, 2.0; international banking facilities, 1.1.

Estimated annual burden hours: Commercial banks, savings associations, U.S. branches and agencies of foreign banks, and significant banking organizations, 90,500; international banking facilities, 21,175.

General description of report: The FR 2420 is a transaction-based report that collects daily liability data on federal funds purchased, selected borrowings from non-exempt entities,[1] Eurodollar transactions, and time deposits and certificates of deposits (CDs) from (1) domestically chartered commercial banks and savings associations that have $18 billion or more in total assets as well as those that have total assets above $5 billion but less than $18 billion and meet the activity threshold, (2) U.S. branches and agencies of foreign banks with total third-party assets of $2.5 billion or more, and (3) significant banking organizations that are active participants in money markets. The FR 2420 also collects daily data on Eurodollar transactions from International Banking Facilities (IBFs) of the above-referenced institutions. The FR 2420 data are used in the publication of the Effective Federal Funds Rate (EFFR) and Overnight Bank Funding Rate (OBFR) and in analysis of current money market conditions.

Legal authorization and confidentiality: The FR 2420 is authorized by section 11 of the Federal Reserve Act (FRA) and section 7 of the International Banking Act of 1978 (IBA). Section 11 of the FRA authorizes the Board to require reports from depository institutions as it may deem necessary and authorizes the Board to prescribe reports of liabilities and assets from insured depository institutions to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates (12 U.S.C. 248(a)). Section 7 of the IBA provides that federal branches and agencies of foreign banks are subject to section 11 of the FRA as if they were state member banks (12 U.S.C. 3105(c)). The obligation to respond to the FR 2420 is mandatory.

The FRBNY uses aggregate data from the FR 2420 to publish the EFFR, OBFR, and associated statistics daily. The information provided by individual respondents to the FR 2420 is nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondents. Responses to the FR 2420 are therefore accorded confidential treatment pursuant to exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Current actions: On May 5, 2021, the Board published a notice in the **Federal Register** (86 FR 23971) requesting public comment for 60 days on the extension, with revision, of the FR 2420. The Board proposed to add a data item to specify the day-count convention used for all interest rates reported on the FR 2420 reporting form. The Board also proposed revisions to the FR 2420 instructions to allow for more timely collection of data, improve monitoring of the transition away from the London Interbank Offered Rate (LIBOR), strengthen the reference rate production process, and ensure the integrity of reported data. The proposed revisions support the Board's monetary policy and supervisory mandates by providing greater insight into funding market conditions in periods where conditions change rapidly, potentially affecting policy measures taken by the Federal Reserve. The comment period for this notice expired on July 6, 2021. The Board received two comment letters from two banking industry associations. As more fully explained below, the commenters opposed changing the submission deadline for certain parts of the FR 2420 from the morning after the transaction is completed (next-day deadline) to the evening the transaction is completed (same-day deadline) and suggested a later implementation date for changing the submission deadline for CD and time deposit transactions (Part C). One comment also argued that certain proposed additions to the FR 2420 instructions, pertaining to securities lending, Certificate of Deposit Account Registry Service (CDARS), and insured cash sweep transactions, would significantly alter the scope of required reporting and increase the reporting burden. In light of the comments, the Board has finalized the proposed revisions to FR 2420, with certain

[1] A selected borrowing from a non-exempt entity is an unsecured borrowing (an unsecured primary obligation undertaken by the reporting institution as a means of obtaining funds) in U.S. dollars from a counterparty that is a non-exempt entity as derived from Regulation D, section 204.2(a)(vii).

modifications intended to mitigate any increase in reporting burden.

Same Day Submission Deadline for Parts A, B, and D of FR 2420

The commenters indicated that the proposed same-day deadline for submission of data related to Federal Funds Purchased (Part A), Eurodollars (Part B), and Selected Deposits (Part D) transactions from the morning after the transaction is completed (next-day deadline) to the evening the transaction is completed (same-day deadline) would not be feasible for certain reporters and would leave insufficient time for reporting controls and other due diligence processes. The commenters also suggested that the proposed deadline would lead to an increase in re-filings of the FR 2420 report, as firms would need to re-file to correct mistakes which would also increase the reporting burden.

In consideration of the additional burden on certain reporters that would have resulted from the proposed same-day deadline, the Board has not finalized this proposed revision to the FR 2420. The deadline for the above noted parts of FR 2420 will remain 7 a.m. ET on the day after the transaction date. However, the Board will nonetheless encourage firms to submit reports as early as possible in order to reduce operational risk associated with the publication of reference rates. The majority of reporting firms already submit data for these parts of FR 2420 on the same day as the transactions are completed, and the Board encourages other reporters to follow this convention when practicable. Reducing risks associated with reference rates production provides benefits to the public and financial markets, in addition to aiding monetary policy implementation, and the Board may repropose a same-day submission deadline in connection with a future renewal of the FR 2420.

Submission Deadline for Part C of FR 2420

The commenters requested that implementation of the proposed earlier next-day deadline for Part C of FR 2420 be delayed at least until August 1, 2022, or 12 months after the release of the final form and instructions. The commenters argue that this later implementation date is needed for reporting firms to have sufficient time to adjust their internal reporting and control processes to accommodate the earlier reporting deadline. In light of the additional burden for reporting firms, the Board will require compliance with the next-day deadline for Part C, along with other changes to the instructions, starting on September 1, 2022.

Changes to Instructions

One commenter opposed several additions to the FR 2420 instructions, including provisions concerning securities lending, CDARS, and insured cash sweep transactions. Regarding securities lending transactions collateralized by cash, the commenter inquired why these transactions would be considered selected deposits. With respect to CDARS and insured cash sweep transactions, the commenter asserted that the proposed additions to the instructions may entail a significant increase in firms' reporting burden, as the added language appeared to require data that may not be in the possession of reporting firms, but rather third parties. In response to the concerns raised by the commenter, the Board will not include the proposed additions concerning securities lending, CDARS, and insured cash sweep transactions in the final instructions.[2]

The Board adopted the remaining revisions to the FR 2420 as proposed.

Board of Governors of the Federal Reserve System, January 19, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–01259 Filed 1–21–22; 8:45 am]

BILLING CODE 6210–01–P

[2] The commenters also noted that the proposed reporting instructions were not made publicly available at the time the proposal was published in the **Federal Register** and requested that certain proposed changes to the instructions not be adopted as a result. The initial **Federal Register** notice stated that copies of the reporting form and instructions could be requested from the Board's clearance officer, who was also identified in the notice. In response to the commenters' letter, the proposed form and instructions were provided to the commenters and posted on the Board's public website.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (''Act'') (12 U.S.C. 1817(j)) and of the Board's Regulation LL (12 CFR 238.31) to acquire shares of a savings and loan holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 8, 2022.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to *MA@mpls.frb.org*:

1. *Scott D. Hewitt, Park Rapids, Minnesota;* to acquire voting shares of Dorset Bancshares, Inc., and thereby indirectly acquire voting shares of Northwoods Bank of Minnesota, all of Park Rapids, Minnesota.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Xinwei Lu, Glen Head, New York; Peter Sasaki, New York, New York; John Zeng, Newport Coast, California; and Beidi Zheng, Los Gatos, California;* to form a group acting in concert to acquire voting shares of My Anns Corporation, and thereby indirectly acquire voting shares of Piqua State Bank, both of Piqua, Kansas.

Board of Governors of the Federal Reserve System, January 19, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–01257 Filed 1–21–22; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of Section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if

two thresholds are met. Competitor corporations are covered by Section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $41,034,000 for Section 8(a)(1), and $4,103,400 for Section 8(a)(2)(A).

DATES: January 24, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher M. Grengs, (202–326–2612), Bureau of Competition, Office of Policy and Coordination.

Authority: 15 U.S.C. 19(a)(5).

April J. Tabor,

Secretary.

[FR Doc. 2022–01215 Filed 1–21–22; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 7A of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976 required by the 2000 amendment of Section 7A of the Clayton Act.

DATES: February 23, 2022.

FOR FURTHER INFORMATION CONTACT: Nora Whitehead (202–326–3100), Bureau of Competition, Premerger Notification Office, 400 7th Street SW, Room 5301, Washington, DC 20024.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94–435, 90 Stat. 1390 (''the Act''), requires all persons contemplating certain mergers or acquisitions, which meet or exceed the jurisdictional thresholds in the Act, to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Section 7A(a)(2) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product, in accordance with Section 8(a)(5). Note that while the filing fee thresholds are revised annually, the actual filing fees are not similarly indexed and, as a result, have not been adjusted for inflation in over a decade. The new thresholds, which take effect 30 days after publication in the **Federal Register**, are as follows:

Subsection of 7A	Original threshold (million)	Adjusted threshold (million)
7A(a)(2)(A)	$200	$403.9.
7A(a)(2)(B)(i)	50	101.
7A(a)(2)(B)(i)	200	403.9.
7A(a)(2)(B)(ii)(i)	10	20.2.
7A(a)(2)(B)(ii)(i)	100	202.
7A(a)(2)(B)(ii)(II)	10	20.2.
7A(a)(2)(B)(ii)(II)	100	202.
7A(a)(2)(B)(ii)(III)	100	202.
7A(a)(2)(B)(ii)(III)	10	20.2.
Section 7A note: Assessment and Collection of Filing Fees [1] (3)(b)(1)	100	202.
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(2)	100	202.
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(2)	500	1.0098 billion.
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(3)	500	1.0098 billion.

[1] Public Law 106–553, Sec. 630(b) amended Sec. 18a note.

Any reference to these thresholds and related thresholds and limitation values in the HSR rules (16 CFR parts 801–803) and the Antitrust Improvements Act Notification and Report Form (''the HSR Form'') and its Instructions will also be adjusted, where indicated by the term ''(as adjusted)'', as follows:

Original threshold	Adjusted threshold
$10 million	$20.2 million.
$50 million	$101 million.
$100 million	$202 million.
$110 million	$222.2 million.
$200 million	$403.9 million.
$500 million	$1.0098 billion.
$1 billion	$2.0196 billion.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2022–01214 Filed 1–21–22; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund National Institute for Communicable Diseases (NICD), South Africa

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $5,000,000 for Year 1 of funding to the National Institute for Communicable Diseases (NICD), South Africa. The award will provide accurate, timely, and high-quality strategic information to enable the South African Government (SAG) to track critical infectious disease pathogens, monitor interventions, and inform policy and programming to reduce disease transmission and burden. Annual award amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022, through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Dr. Karidia Diallo, Center for Global Health, Centers for Disease Control and

Prevention, 100 Totius Street, Groenkloof, Pretoria, South Africa, Telephone: 800–232–6348, Email: *edu9@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will support the SAG in four broad areas of public health surveillance and response: Communicable (*e.g.,* HIV and TB) and non-communicable disease surveillance, public health laboratory capacity, public health workforce development, and global health security. The NICD, under the National Public Health Institute of South Africa (NAPHISA), is in a unique position to conduct this work, through an act of parliament mandating the organization to provide microbiology, virology, epidemiology, surveillance and public health research and training to support the government's response to communicable disease threats.

Summary of the Award

Recipient: National Institute for Communicable Diseases (NICD), South Africa.

Purpose of the Award: The purpose of this award is to provide accurate, timely, and high-quality strategic information to enable the SAG to track critical infectious disease pathogens, monitor interventions, and inform policy and programming to reduce disease transmission and burden.

Amount of Award: The approximate year 1 funding amount will be $5,000,000 in Federal Fiscal Year (FFY) 2022 funds, subject to the availability of funds. Annual award amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022, through September 29, 2027.

Dated: January 19, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–01271 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22BY; Docket No. CDC–2022–0008]

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 Importation Regulations (42 CFR 71 subpart F), which specifies the requirements for importing animals or animal products that are regulated by CDC into the United States.

DATES: CDC must receive written comments on or before March 25, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0008 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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 comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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

Importation Regulations (42 CFR 71 Subpart F)—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a request for a new information collection to consolidate forms and information collections related to the importation of animals, animal products, and human remains into one information collection. This information collection was previously part of three separate, OMB-approved information collections: (1) 0920–1034 (expires 3/31/2022), (2) 0920–0263 (expires 9/30/2023), and (3) 0920–0199 (expires 8/31/2024). CDC is requesting a three-year OMB clearance for this new, combined information collection.

Section 361 of the Public Health Service Act (PHSA) (42 U.S.C. 264)

authorizes the Secretary of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the United States. The Statute, and the existing regulations governing foreign quarantine activities (42 CFR 71), authorize quarantine officers and other personnel to inspect and undertake necessary control measures with respect to conveyances, persons, and shipments of animals and etiologic agents in order to protect the public's health.

CDC regulations govern the importation of animals and animal products capable of causing human disease. Animals that are regulated by CDC are dogs, cats, turtles, snakes, lizards, non-human primates (NHP), civets, African rodents, and bats. CDC controls the importation of these animals to ensure that these animals, or animal products, being imported into the United States meet CDC regulations. CDC does this through a permitting process for certain animals.

On June 16, 2021 CDC published a **Federal Register** Notice informing the public about a temporary suspension of dogs entering the United States from high-risk rabies countries. The canine rabies virus variant (CRVV) was declared eliminated in the United States in 2007. The importation of just one dog infected with CRVV risks re-introduction of the virus into the United States resulting in a potential public health risk with consequent monetary cost and potential loss of human and animal life. Since 2015 there have been four known rabid dogs imported into the United States.

During the suspension period, CDC will issue permits for importers with dogs who have been in a high-risk CRVV country within the last six months and do not have a current, valid U.S.-issued rabies vaccination certificate. Only importers who are permanently relocating to the United States, are a US government employee traveling on official orders, are an owner of a service dog that is trained to assist them with a disability, are an individual importing dogs for science, education, exhibition, or law enforcement purposes, or people who traveled with their dog before July 31, 2021 are eligible to apply for a permit. Dogs from CRVV-free or low risk countries and dogs with valid U.S.-issued rabies vaccination certificates that are microchipped, healthy, and at least six months of age do not require a permit. The current permit application to import a dog is under collection 0920–1034. When a dog or cat arrives at an airport and is sick or dead, importers are required to notify CDC. There is no form for this notification.

Other animals that require a permit, and are included in this information collection are NHPs, which can carry of number of diseases that can cause severe infections in people. NHPs may not be imported as pets and may only be imported for bona fide scientific, educational, or exhibition purposes, as defined in the regulations. Forms for the importation of NHPs are currently under information collection 0920–0263. These forms will move into this new information collection to consolidate all forms related to the importation of animals or animal products into one collection.

A new form to request a permit to import a regulated animal that is neither a dog nor an NHP (*e.g.,* turtles, African rodents, civets) is included in this information collection. It also incorporates the addition of bats, which is currently approved under OMB control number 0920–0199.

Regarding human remains, the Division of Global Migration and Quarantine (DGMQ) works with the Division of Select Agents and Toxins (DSAT) on the importation for human remains. DGMQ requests death certificates from those wishing to import remains and then determines if the importer will need a permit, which is issued by DSAT and will remain in 0920–0199.

Lastly, people importing animal products must make a statement or provide documentation demonstrating that the animal product is not infectious.

CDC requests approval for an estimated 60,215 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Dog Importers (42 CFR 71.51(c)(2), (d)).	Dog Permit Application Form	60,000	1	60/60	60,000
NHP Importers (42 CFR 71.53)	NHP Shipment Arrival Notification Form.	120	1	15/60	30
First Time NHP Importer (42 CFR 71.53).	NHP Importer Form	15	1	120/60	30
Regulated Animal Importer (42 CFR 71).	Other animal import form	2	1	30/60	1
Dog and Cat Importers (42 CFR 71.51(b)(3)).	Record of sickness or death	43	1	60/60	43
Human Remains Importers (42 CFR 71.55, 42 CFR 71.32).	Provide death certificate	50	1	15/60	13
Importer of animal products (42 CFR 71.32).	Statement or documentation of non-infectiousness.	391	1	15/60	98
Total					60,215

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–01260 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the Republican AIDS Center, Kyrgyz Republic

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $2,000,000 for Year 1 of funding to the Republican AIDS Center, Kyrgyz Republic (KR). The award will build on previous President's Emergency Plan for AIDS Relief (PEPFAR) program support to ensure continuity of high-quality HIV services to existing clients across the HIV cascade, the steps of care (from diagnosis to achieving viral load (VL) suppression) for people living with HIV (PLHIV), and achieve the Joint United Nations Programme on HIV/AIDs (UNAIDS) 95–95–95 goals (95% of HIV-positive individuals knowing their status, 95% of those receiving ART [Antiretroviral therapy], and 95% of those achieving viral suppression). Annual award amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022, through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Patrick Nadol, Center for Global Health, Centers for Disease Control and Prevention, U.S. Embassy Bishkek, 171 Prospect Mira, Bishkek 720016 Kyrgyz Republic, Telephone: 800–232–6348, Email: *pen5@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will allow for implementation of high-quality care and treatment programs with a focus on same-day antiretroviral therapy (SD–ART) initiation. Programs will utilize innovative approaches to ART adherence and participant retention; as well as HIV testing and counseling (HTC), and prevention programs that focus on pre-exposure prophylaxis (PrEP) and opioid substitution therapy (OST). The key focus of the project will be integration of the Republican AIDS Center's granular site management project in PEPFAR-supported sub-national units to the national scale to improve quality of provided services to PLHIV and institutionalize quality management system and incorporate into national HIV plan.

The Republican AIDS Center (RAC) is in a unique position to conduct this work in the Kyrgyz Republic, as it is the leading organization responsible for National HIV Program implementation under the Ministry of Health and Social Development. In the Kyrgyz Republic, the Ministry of Health and Social Development has mandated the RAC to lead and coordinate the national response to HIV/AIDS, including developing and regulating national HIV guidelines and policies.

Summary of the Award

Recipient: Republican AIDS Center, Kyrgyz Republic.

Purpose of the Award: The purpose of this award is to build on previous PEPFAR program support to ensure continuity of high-quality HIV services to existing clients across the HIV cascade and achieve the UNAIDS 95–95–95 goals. The award will support a comprehensive and integrated HIV program (*e.g.:* Surveillance, prevention, and treatment to prevent new infections), improve health outcomes for PLHIV (*i.e.:* Achieving and sustaining VL suppression), reduce HIV transmission and mortality in accordance with KR's national prevention goal, and strengthen public health functions to address other health priorities.

Amount of Award: The approximate year 1 funding amount will be $2,000,000 in Federal Fiscal Year (FFY) 2022 funds, subject to the availability of funds. Annual award amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022, through September 29, 2027.

Dated: January 19, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–01266 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the Vietnam Department of Animal Health

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $1,000,000, with an expected total funding of approximately $5,000,000 over a five-year project period, to the Vietnam Department of Animal Health. The award will strengthen capabilities and maintain the government run laboratory-supported surveillance at the animal-human interface for avian and non-avian influenza viruses, other zoonotic diseases (*e.g.,* rabies, African Swine Fever, etc.), and other respiratory zoonotic viruses (*e.g.,* SARS–CoV–2) in Vietnam.

DATES: The period for this award will be September 30, 2022, through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Nga Vuong, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Rd. NE, MS H24–7, Atlanta, GA 30329, Telephone: 800–232–6348.

SUPPLEMENTARY INFORMATION: The single-source award will strengthen capabilities and maintain the government run laboratory-supported surveillance at the animal-human interface for avian and non-avian zoonotic influenza viruses, other zoonotic diseases, and other respiratory zoonotic viruses in Vietnam.

The Vietnam Department of Animal Health (DAH) is in a unique position to conduct this work because of their position as the sole official, authorized governmental agency with the legal and regulatory authority and ability to lead and manage animal health and pathogen surveillance. DAH provides technical management and oversight to its sub-departments across the country to implement animal surveillance and related activities such as outbreak investigation. DAH's 7 Regional Animal Health Offices (RAHOs) are strategically located throughout the country and have in-house lab testing capacity. DAH is at the center of a national network of

collaborating animal health offices including the National Center for Veterinary Diagnosis. DAH possesses the high-quality lab and epidemiologic capacities to analyze influenza and other zoonotic and animal disease pathogens in the molecular, antigenic, diagnostic, and epidemiologic efforts. DAH has an established framework and systematic surveillance network to generate data on the occurrence of animal diseases and disease burden, to evaluate new diagnostic approaches, to develop standards for specimen collection and handling, and to communicate important new scientific development.

Summary of the Award

Recipient: Vietnam Department of Animal Health (DAH).

Purpose of the Award: The purpose of this award is to strengthen capabilities and maintain the government run laboratory-supported surveillance at the animal-human interface for avian and non-avian influenza viruses, other zoonotic diseases, and other respiratory zoonotic viruses in Vietnam. Activities supported through this award will also enhance the capacity of the Vietnamese Government to identify, monitor, respond, and mitigate risk factors to outbreaks of avian and non-avian zoonotic influenza viruses to decrease prevalence, morbidity, and mortality of disease within Vietnam; improve participation of Vietnam in global WHO vaccine strain selection and development; enhance multi-sector collaboration in outbreak investigation across the animal-health interface; and increase use of surveillance data for decision making around prevention and control activities to protect human population.

Amount of Award: $1,000,000 in Federal Fiscal Year (FFY) 2022 funds, and an estimated total of approximately $5,000,000 over the five-year project period, subject to availability of funds.

Authority: This program is authorized under Section 307 of the Public Health Service Act, as amended (42 U.S.C. 242l).

Period of Performance: September 30, 2022, through September 29, 2027.

Dated: January 19, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–01274 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–0943; Docket No. CDC–2022–0005]

Proposed Data Collections 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 efforts to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Data Collection for the Residential Care Community and Adult Day Services Center Components of the National Post-Acute and Long-Term Care Study. The purpose is to collect data for the residential care community and adult day services center components for the 2022 wave of the National Post-Acute and Long-Term Care Study.

DATES: Written comments must be received on or before March 25, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0005 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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 public comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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 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 shall 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 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

Data collection for the residential care community and adult day service center components of the National Post-Acute and Long-Term Care Study (OMB Control No. 0920–0943, Exp. 09/30/2023)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, ''shall collect statistics on health resources . . . [and] utilization of health care, including extended care facilities, and other institutions.''

NCHS seeks approval to collect data for the residential care community (RCC) and adult day services center (ADSC) survey components of the 6th National Post-Acute and Long-Term Care Study or NPALS (formerly known as the National Study of Long-Term Care Providers or NSLTCP). A two-year clearance is requested.

The NPALS is designed to; (1) broaden NCHS' ongoing coverage of paid, regulated long-term care (LTC) providers; (2) merge with existing administrative data on LTC providers and service users (*i.e.,* Centers for Medicare and Medicaid Services (CMS) data on inpatient rehabilitation facilities and patients, long-term care hospitals and patients, nursing homes and residents, home health agencies and patients, and hospices and patients); (3) update data more frequently on LTC providers and service users for which nationally representative administrative data do not exist; and (4) enable comparisons across LTC sectors and monitor supply and use of these sectors over time.

Data will be collected from two types of LTC providers in the 50 states and the District of Columbia: 2,090 RCCs and 1,650 ADSCs. Data were collected in 2012, 2014, 2016, 2018, and 2020. The data to be collected in 2022 include the basic characteristics, services, staffing, and practices of RCCs and ADSCs, and demographics, selected health conditions and health care utilization, physical functioning, and cognitive functioning of RCC residents and ADSC participants. The 2022 NPALS will include provider and services user questionnaires. Directors of 25 RCCs and 25 ADSCs that have adopted an EHR platform will complete an additional questionnaire to identify and confirm the data elements, any local customization, and export and transmission capabilities.

Expected users of data from this collection effort include, but are not limited to; CDC, other Department of Health and Human Services (DHHS) agencies, such as the Office of the Assistant Secretary for Planning and Evaluation, the Administration for Community Living, and the Agency for Healthcare Research and Quality; associations, such as LeadingAge, National Center for Assisted Living, American Seniors Housing Association, Argentum, and National Adult Day Services Association; universities; foundations; and other private sector organizations such as the Alzheimer's Association, the AARP Public Policy Institute, and the National Academies of Sciences, Engineering, and Medicine.

Expected burden from data collection for eligible cases is 60 minutes per respondent; 30 minutes for a provider questionnaire and 30 minutes for a services user questionnaire. Fifty respondents will have an additional 30 minutes of expected burden for data collection about EHR data elements. We calculated the burden based on a 100% response rate. Two-year clearance is requested to cover the collection of data. The burden for the collection is shown in the Table below. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)	Total burden (in hours)
RCC Director/Designated Staff Member.	RCC Provider Questionnaire	1,045	1	30/60	523
ADSC Director/Designated Staff Member.	ADSC Provider Questionnaire	825	1	30/60	413
RCC Director/Designated Staff Member.	RCC Services User Questionnaire	1,045	1	30/60	523
ADSC Director/Designated Staff Member.	ADSC Services User Questionnaire	825	1	30/60	413
RCC/ADSC Director/Designated Staff Member.	EHRs Data Element Questionnaire	25	1	30/60	13
Total					1,885

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–01264 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22BU; Docket No. CDC–2022–0006]

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 Year 7 (2022) Customer Service Satisfaction Survey for the CDC Antibiotic Resistance (AR) Isolate Bank. The proposed information collection project aims to collect customer service satisfaction data from AR Isolate Bank users and will be used to make improvements to the tool for future years.

DATES: CDC must receive written comments on or before March 25, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0006 by any of the following methods:

• *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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 comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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

Year 7 (2022) Customer Satisfaction Survey for the CDC Antibiotic Resistant Isolate Bank—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC AR Isolate Bank Customer Satisfaction Survey will capture feedback regarding ease of use, product quality, and expectations for future panels from AR Isolate Bank customers. This survey comes six years after the AR Isolate Bank launched. Since the first satisfaction survey, the Bank's customer base has more than tripled and represents an even more diverse set of users. Results may inform additional new features and/or isolates to meet these news users' needs and may also provide insight for success stories. Results from the Year 7 survey will be compared to the previous year's results to better determine how each sector is utilizing CDC's isolates, assess how well the customer needs have been met, and establish areas for future improvement. Survey results from previous years have informed upgrades to the Bank's web interface and have aided in streamlining the ordering process. Feedback will be used as CDC works to continually improve the Bank's web interface and customer engagement process.

Respondents will be those who have received orders from the AR Isolate Bank, and represent laboratorians and researchers at academic research institutions, device and drug manufacturers, hospitals and clinics, state and local health departments, and other U.S. federal agencies. CDC requests OMB approval for an estimated 117 burden hours annually. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
CDC's AR Isolate Bank customers.	Year 7 (2022) Customer Service Satisfaction Survey for the CDC Antibiotic Resistance (AR) Isolate Bank.	700	1	10/60	117
Total					117

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–01263 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-22–1308; Docket No. CDC–2022–0007]

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 Validated Follow-up Interview of Clinicians on Outpatient Antibiotic Stewardship Interventions. This collection aims to perform an interview of outpatient clinicians regarding the acceptability and perceived clinician level barriers associated with our year-long implementation of interventions designed around the Core Elements of Outpatient Antibiotic Stewardship.

DATES: CDC must receive written comments on or before March 25, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0007 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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 comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS 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

Validated Interview and Survey of Outpatient Providers on Antibiotic Stewardship Interventions (OMB Control No. 0920–1308)—Reinstatement—Division of Healthcare Quality Promotion (DHQP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Inappropriate antibiotic prescribing is a major driver of antibiotic resistance which is an urgent national and global health threat. Additionally, inappropriate antibiotic prescribing contributes to avoidable adverse drug events that cause substantial harm to patients. Most antibiotic prescribing originates in traditional outpatient settings such as physician offices and emergency departments and at least 30% of these prescriptions are completely unnecessary. Over the past decade there has been rapid growth in non-traditional outpatient settings including Urgent Care clinics. Recent evidence shows that when compared to traditional office settings, inappropriate antibiotic prescribing is substantially higher in Urgent Care clinics making this an important priority for antibiotic stewardship. The design, development, and evaluation of durable stewardship interventions addressing the unique setting of Urgent Care clinics is an important area of unmet need. This data will assess knowledge, attitudes, and practices related to antibiotic prescribing among clinicians after implementation of a year-long Urgent Care stewardship initiative.

CDC requests approval for an estimated 62 annual burden hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Urgent Care Clinician	Interview Guide	20	1	1	20
Urgent Care Clinician	Survey	125	1	20/60	42
Total					62

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–01262 Filed 1–21–22; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics (NCHS), ICD–10 Coordination and Maintenance (C&M) Committee Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of virtual meeting.

SUMMARY: The CDC, National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff, announces the following meeting of the ICD–10 Coordination and Maintenance (C&M) Committee meeting. This meeting is open to the public, limited only by audio lines available. Online Registration is not required.

DATES: The meeting will be held on March 8, 2022, from 9:00 a.m. to 5:00 p.m., EST, and March 9, 2022, from 9:00 a.m. to 5:00 p.m., EST.

ADDRESSES: This is a virtual meeting. Information will be provided on each of our respective web pages when it becomes available. For CDC/NCHS *https://www.cdc.gov/nchs/icd/icd10cm_maintenance.htm*. For CMS *https://www.cms.gov/Medicare/Coding/ICD9ProviderDiagnosticCodes/meetings*.

FOR FURTHER INFORMATION CONTACT: Traci Ramirez, Medical Systems Specialist, CDC, 3311 Toledo Road, Hyattsville, Maryland 20782, Telephone: (301) 458–4454; Email: *TRamirez@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The ICD–10 Coordination and Maintenance (C&M) Committee is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Tenth Revision, Clinical Modification and ICD–10 Procedure Coding System.

Matters To Be Considered: The tentative agenda will include discussions on ICD–10–CM and ICD–10–PCS topics listed below. Agenda items are subject to change as priorities dictate. Please refer to the posted agenda for updates one month prior to the meeting.

ICD–10–PCS Topics

1. Administration of Spesolimab *
2. Administration of daratumumab and hyaluronidase-fihj *
3. Administration of Defencath *
4. Administration of Maribavir *
5. Administration of Teclistamab *
6. Administration of Mosunetuzumab *
7. Administration of afamitresgene autoleucel **
8. Administration of tabelecleucel **
9. Administration of Treosulfan *
10. Administration of inebilizumab-cdon *
11. Administration of Xenon-129 *
12. Administration of betibeglogene autotemcel **
13. Administration of Omidubicel **
14. Implantation of Sphenopalatine Ganglion Stimulator for Ischemic Stroke *
15. Gene Expression Assay **
16. Vertebral Body Tethering *
17. Percutaneous Femoral-Popliteal Artery Bypass *
18. Computer-Assisted Transcranial Magnetic Stimulation *
19. Computer-Aided Analysis for the Detection and Classification of Epileptic Events *
20. Facet Replacement Spinal Stabilization Device *
21. Insertion of Sacropelvic Fixation System *
22. Insertion of an Implantable Vagus Nerve Stimulation System *
23. Insertion of a Paired Vagus Nerve Stimulation System *
24. Percutaneous Venous Thrombectomy for Postthrombotic Syndrome *
25. Quantitative Flow Ratio for Non-invasive Intraprocedural Analysis of Cardiac Angiography
26. Application of Allogeneic Thymus Derived Tissue
27. Supersaturated Oxygen Therapy
28. Assistance with Precision Stimulation Software *
29. Section X Updates
30. Addenda and Key Updates

* Requestor has submitted a New Technology Add-on Payment (NTAP) application for FY 2023.

** Requestor intends to submit an NTAP application for FY 2024 consideration.

Presentations for procedure code requests are conducted by both the requestor and CMS during the Coordination & Maintenance Committee meeting. Discussion from the requestor generally focuses on the clinical issues for the procedure or technology, followed by the proposed coding options from a CMS analyst. Topics presented may also include requests for new procedure codes that relate to a new technology add-on payment (NTAP) policy request.

CMS is continuing to modify the approach for presenting the new technology add-on payment (NTAP) related ICD–10–PCS procedure code requests that involve the administration of a therapeutic agent for the March 8–9, 2022 ICD–10 Coordination and Maintenance Committee meeting. Consistent with the requirements of section 1886(d)(5)(K)(iii) of the Social Security Act, applicants submitted requests to create a unique procedure code to describe the administration of a therapeutic agent, such as the option to create a new code in Section X within the ICD–10–PCS procedure code classification. CMS will initially only display those meeting materials associated with the NTAP related ICD–10–PCS procedure code requests that involve the administration of a therapeutic agent on the CMS website in early February 2022 at: *https://www.cms.gov/Medicare/Coding/ICD10/C-and-M-Meeting-Materials*.

The 13 NTAP related ICD–10–PCS procedure code requests that involve the administration of a therapeutic agent are:

1. Administration of Spesolimab *
2. Administration of daratumumab and hyaluronidase-fihj *
3. Administration of Defencath *
4. Administration of Maribavir *
5. Administration of Teclistamab *
6. Administration of Mosunetuzumab *
7. Administration of afamitresgene autoleucel **
8. Administration of tabelecleucel **
9. Administration of Treosulfan *
10. Administration of inebilizumab-cdon *
11. Administration of Xenon-129 *
12. Administration of betibeglogene autotemcel **
13. Administration of Omidubicel **

These topics will not be presented during the March 8–9, 2022 meeting. CMS will solicit public comments regarding any clinical questions or coding options included for these 13 procedure code topics in advance of the meeting continuing through the end of the public comment period, April 8, 2022. Members of the public should send any questions or comments to the CMS mailbox at: *ICDProcedure CodeRequest@cms.hhs.gov* by the April 8, 2022 deadline.

CMS intends to post a question and answer document in advance of the meeting to address any clinical or coding questions that members of the public may have submitted. Following the conclusion of the meeting, CMS will post an updated question and answer document to address any additional clinical or coding questions that members of the public may have submitted during the meeting that CMS was not able to address or that were submitted after the meeting.

The NTAP related ICD–10–PCS procedure code requests that do not involve the administration of a

therapeutic agent and all non-NTAP related procedure code requests will continue to be presented during the virtual meeting on March 8, 2022, consistent with the standard meeting process.

CMS will make all meeting materials and related documents available at: *https://www.cms.gov/Medicare/Coding/ICD10/C-and-M-Meeting-Materials.* Any inquiries related to the procedure code topics scheduled for the March 8–9, 2022 ICD–10 Coordination and Maintenance Committee meeting that are under consideration for October 1, 2022 implementation should be sent to the CMS mailbox at: *ICDProcedure CodeRequest@cms.hhs.gov.*

ICD–10–CM Topics

1. Coma
2. Craniosynostosis
3. Extraocular muscle entrapment
4. Foreign body sensation
5. Impairing Emotional Outbursts
6. Insulin resistant syndrome
7. Leukodystrophies
8. Observation and evaluation of newborn for other specified suspected condition ruled out
9. Problems related to upbringing
10. Addenda

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–01283 Filed 1–21–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; ORR–1, Cash and Medical Assistance Program Estimates

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is requesting a 3-year extension of the form ORR–1, Cash and Medical Assistance Program Estimates (OMB #0970–0030, expiration 5/31/2022). There are no changes requested to the form or instructions.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The ORR–1, Cash and Medical Assistance Program Estimates, is the application for grants under the Cash and Medical Assistance (CMA) program. The application is required by ORR program regulations at 45 CFR 400.11(b). The regulation specifies that states must submit, as their application for this program, estimates of the projected costs they anticipate incurring in providing cash and medical assistance for eligible recipients and the costs of administering the program. Under the CMA program, states are reimbursed for the costs of providing these services and benefits for 8 months after an eligible recipient arrives in this country. The eligible recipients for these services and benefits are refugees, Amerasians, Cuban and Haitian Entrants, asylees, Afghans and Iraqi with Special Immigrant Visas, and victims of a severe form of trafficking. States that provide services for unaccompanied refugee minors also provide an estimate for the cost of these services for the year for which they are applying for grants.

Respondents: State Agencies, the District of Columbia, and Replacement Designees under 45 CFR 400.301(c) administering or supervising the administration of programs under Title IV of the Act.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
ORR–1, Cash and Medical Assistance Program Estimates	57	1	0.6	34

Estimated Total Annual Burden Hours: 34.

Comments: The Department specifically requests comments 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; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 8 U.S.C. 412(a)(4))

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–01287 Filed 1–21–22; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; System of Records

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of modified systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974,

as amended, the Department of Health and Human Services (HHS) is modifying three systems of records maintained by the Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE): System Number 09–80–0381, ''OCSE National Directory of New Hires, HHS/ACF/OCSE''; System No. 09–80–0383, ''OCSE Debtor File, HHS/ACF/OCSE''; and System No. 09–80–0387, ''Federal Parent Locator Service Child Support Services Portal, HHS/ACF/OCSE'' (now renamed ''Child Support Portal Registration Records, HHS/ACF/OCSE'').

DATES: This Notice is applicable January 24, 2022, subject to a 30-day period in which to comment on the new and revised routine uses, described below. Please submit any comments by February 23, 2022.

ADDRESSES: The public should address written comments by mail or email to: Anita Alford, Senior Official for Privacy, Administration for Children and Families, 330 C St. SW, Washington, DC 20201, or *anita.alford@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: General questions about these systems of records should be submitted by mail or email to Venkata Kondapolu, Acting Director, Division of Federal Systems, Office of Child Support Enforcement, at 330 C St. SW, 5th Floor, Washington, DC 20201, *Venkata.Kondapolu@acf.hhs.gov* or 202–260–4712.

SUPPLEMENTARY INFORMATION:

I. Explanation of Changes to 09–80–0381, OCSE National Directory of New Hires

This system of records covers records about newly hired employees, including employer, wage, unemployment compensation, and income withholding information for child support enforcement. The System of Records Notice (SORN) has been modified as follows:

- Address information in the System Location and System Manager sections has been updated.
- The Authority section has been updated to include 42 U.S.C. 652(n), 653(a)(2), 653(c)(5), and 659a(c)(2).
- The Purpose section has been revised to include these additional purpose specifications:
  - ○ Assisting tribal child support programs.
  - ○ Supporting establishment and enforcement of child and medical support orders.
  - ○ Supporting collection of non-tax debts owed to the federal government and administration of the tax code.
- The Categories of Individuals section now includes the following:
  - ○ Independent contractors as part of category 3.
  - ○ Tribal IV–D child support enforcement agencies as part of category 5.
- The Categories of Records section now includes references to the following:
  - ○ Independent contractors as part of record category 3.
  - ○ Tribal IV–D child support enforcement agencies as part of record category 6.
  - ○ Medical support records as part of record category 6, including an explanation that such records contain health care coverage provider information, third party provider information, professional employer organization information, and pension plan provider information.
- The Record Source Categories section now includes the following:
  - ○ Health Plan Administrators, both employers and the health plan administrators may be sources of health care coverage information submitted in response to a National Medical Support Notice.
- The Routine Uses section has been updated as follows:
  - ○ The opening paragraph has been revised to remove an unnecessary statement that each disclosure must be compatible with the purpose for which the records were collected (the statement is redundant because this is how a routine use is defined in 5 U.S.C. 552a(a)(7)), and to add a statement that ''ACF will prohibit redisclosures, or may permit only certain redisclosures, as required or authorized by law.''
  - ○ Routine use 1 has been revised to clarify that the persons authorized to be disclosure recipients under 42 U.S.C. 653(c) include agents and attorneys of ''Indian Tribes or Tribal organizations'' (in case not understood to be included in the description ''agents and attorneys of states''); to include, in the description of agents and attorneys, a reference to ''plan[s] approved under title IV–D of the Social Security Act;'' to remove, from descriptions of court orders, references to ''custody'' and ''visitation'' (*i.e.,* to refer only to ''support'' and ''maintenance''); and to add a fifth category of disclosure recipient, *i.e.,* an entity designated as a Central Authority for child support enforcement in a foreign reciprocating country or a foreign treaty country, as authorized by amendments made to 42 U.S.C. 653(c) by the Preventing Sex Trafficking and Strengthening Families Act of 2014, Public Law 113–183, September 29, 2014.
  - ○ Routine use 4 has been revised to include foreign treaty countries as disclosure recipients, pursuant to 42 U.S.C. 652(n) and 653(c)(5).
  - ○ Routine use 7 has been revised to include Tribal IV–D child support enforcement agencies as disclosure recipients.
  - ○ Routine use 9 has been revised to permit disclosures to the Commissioner of Social Security for an additional purpose, *i.e.,* administering the Ticket to Work program.
  - ○ The heading for routine use 15 has been revised to read ''Disclosure to State Agency for Supplemental Nutrition Assistance Program Purposes'' to mirror changes to the heading of subsection 42 U.S.C. 653(j)(10) made by the Agricultural Act of 2014, Public Law 113–79, February 7, 2014.
  - ○ Routine use 16 has been revised to cite 42 U.S.C. 653 (instead of only 42 U.S.C. 653(j)) and to no longer include an unnecessarily detailed description of the benefits, compensation, or services that are the subject of the disclosures made to the Secretary of Veterans Affairs under 42 U.S.C. 653.
  - ○ Routine uses 17 and 18 have been revised to omit redundant wording, *i.e.,* the disclosure must be compatible with the purpose for which the records were collected (the wording is redundant because this is how a routine use is defined in 5 U.S.C. 552a(a)(7)); and the wording of routine use 18 (authorizing disclosures in litigation or other proceedings) has been simplified.
  - ○ Routine use 19 has been revised to require that the constituent request, which is the subject of the disclosure, must be a ''written'' request.
  - ○ The security breach-related routine use that was previously numbered as routine use 21 and was revised February 14, 2018, (see 83 FR 6591) is now numbered as routine use 21(a); a second security breach-related routine use that was added in the notice on February 14, 2018, is now numbered as routine use 21(b).
  - ○ A note has been added at the end of the Routine Uses section, explaining that most of the disclosures the Privacy Act at 5 U.S.C. 552a(b) permits to be made without publishing a routine use are not, in fact, permissible for NDNH data, due to access restrictions stated in the NDNH statute at 42 U.S.C. 653(l), but ACF may lawfully disclose NDNH data to the Comptroller General without the data subject's consent, as permitted by 5 U.S.C. 552a(b)(10), and will make such disclosures when requested by the Comptroller General, because such disclosures are required by 31 U.S.C. 721 notwithstanding the access restrictions imposed by the NDNH statute.

• A section that followed the Routine Uses section that stated disclosures are not made to consumer reporting agencies has been removed as unnecessary to include.

• The Policies and Practices for Retention and Disposal of Records section has been updated to identify the applicable National Archives and Records Administration (NARA)-approved disposition schedule, N1–292–10–2.

• The Administrative, Technical, and Physical Safeguards section has been updated to include information about the use of cloud service providers and to state that authorized persons' access to the records is role-based.

• The procedures for making access, amendment, and notification requests now explain how to provide verification of identity (instead of stating that identity must be verified in accordance with HHS' Privacy Act regulations) and list date of birth and social security number (SSN) as examples of identifying particulars to include for the purpose of distinguishing between records on individuals with the same name (instead of indicating that SSN should be included in every request).

II. Explanation of Changes to 09–80–0383, OCSE Debtor File

This system of records covers records about individuals owing past due child support and individuals claiming or receiving insurance claims, settlements, awards, and payments or other periodic or lump-sum state or federal benefits. The following modifications have been made:

• Address information in the System Location and System Manager sections has been updated.

• In the Purpose section, one statutory reference has been updated to reflect that 42 U.S.C. 652(l) was redesignated as 42 U.S.C. 652(m).

• The Categories of Individuals section has been clarified to specifically mention ''federal tax refunds and federal administrative payments'' as examples of income or benefits, in the description of ''additional individuals receiving income or benefits.''

• The Categories of Records section has been revised to add date of birth, place of birth, and mailing address as data elements within record category 1.

• The Routine Uses section has been updated as follows:

○ The opening paragraph and routine uses 11 and 12 have been revised to remove an unnecessary statement, ''the disclosures must be compatible with the purpose for which the records were collected.'' This statement is redundant, because this is how a routine use is defined in 5 U.S.C. 552a(a)(7)); and the wording of routine use 12 (authorizing disclosures in litigation or other proceedings) has been simplified.

○ Routine uses 4 and 8 have been revised to update a statutory citation (due to a redesignation, 42 U.S.C. 652(l), which is now 42 U.S.C. 652(m)).

○ Routine use 14 has been revised to require that the constituent request, which is the subject of the disclosure, must be a ''written'' request.

○ The security breach-related routine use that was previously numbered as routine use 15 and was revised on February 14, 2018 (see 83 FR 6591) is now numbered as routine use 15(a); and a second security breach-related routine use that was added in the same notice on February 14, 2018, is now numbered as routine use 15(b).

• A section that followed the Routine Uses section, which stated that disclosures are not made to consumer reporting agencies, has been removed as unnecessary to include.

• The Policies and Practices for Retention and Disposal of Records section has been updated to state that ''[u]pon approval of a disposition schedule by the National Archives and Records Administration (NARA)'' the records will be deleted when OCSE determines that the records are no longer needed.

• The Administrative, Technical, and Physical Safeguards section has been updated to include information about the use of cloud service providers and to state that authorized persons' access to the records is role-based.

• The procedures for making access, amendment, and notification requests now explain how to provide verification of identity (instead of stating that identity must be verified in accordance with HHS' Privacy Act regulations) and list date of birth and SSN as examples of identifying particulars to include for the purpose of distinguishing between records on individuals with the same name (instead of indicating that SSN should be included in every request).

III. Explanation of Changes to 09–80–0387, Child Support Portal Registration Records

This system of records covers records OCSE uses to maintain and verify information about individuals who are legally authorized, and have been given access privileges by OCSE, to use the Child Support Portal. The Child Support Portal enables these authorized users to submit and exchange information and to access select, highly confidential child support enforcement case information maintained in other OCSE Systems of Records for authorized purposes. The following modifications have been made:

• The system of records name has been changed from ''Federal Parent Locator Service Child Support Services Portal'' to ''Child Support Portal Registration Records,'' and revisions have been made throughout the SORN to clarify that the scope of the system of records is limited to registration records about individuals who register for access to use the Child Support Portal's services. (There are no records in the portal; the portal is used to submit records to and access records in other OCSE systems of records.)

• Address information in the System Location and System Manager sections has been updated.

• The Purpose section has been revised to clarify that ''OCSE personnel and contractors'' use the registration records to validate registrants' and their affiliated organizations' eligibility for access, to authenticate their identity, and to state these additional purpose specifications (purposes for individuals registering to access the Child Support Portal):

○ OCSE personnel register to use the Child Support Portal to submit, request, and receive child support program reporting information that does not include personally identifiable information (PII), such as state plan and program self-assessment reports.

○ OCSE contractors register to use the Child Support Portal to perform system administrative support functions.

○ Employers' representatives register to use the Child Support Portal to submit employer identifying and contact information, and employee status changes; provide lump sum payment information and a list of states in which the employer operates; and to designate a single reporting state for the National Directory of New Hires.

○ Financial institutions' and insurers' representatives register to use the Child Support Portal to provide information about financial assets and potential insurance payouts for child support obligors.

○ States' and tribes' representatives register to use the Child Support Portal to submit and access child support case information regarding child support obligor location, income, assets, and other inter-jurisdictional case information; state and tribal child support agencies use the Child Support Portal to submit federally required reports.

• The Categories of Individuals section that describes categories of registrants, has been revised to:

○ Add employees of tribal agencies, and change ''employees'' of employers,

insurance companies, and financial institutions to ''representatives and contractors'' of those entities.

○ Include a summary of the purposes for which individuals register to access the Child Support Portal, as ''for the purpose(s) of submitting or accessing information to process child support cases'' (instead of repeating particular purposes, such as those now stated in the Purpose(s) section).

• The Categories of Records section has been revised to:

○ List additional data elements collected at the time of portal access registration, including user name or ID number, business function, workload identifier, employer, county of employment, telephone number, telephone service provider, tribal affiliation, email address, name of employer, selected security questions and responses, and individual passwords for access to the Child Support Portal.

• The Routine Uses section has been updated as follows:

○ A statement about tax information has been removed as not applicable to the user registration records covered in this system of records.

○ The opening paragraph and routine use 1 have been revised to remove an unnecessary statement that disclosures must be compatible with the purpose for which the records were collected (the statement is redundant, because this is how a routine use is defined in 5 U.S.C. 552a(a)(7)); and the wording of routine use 1 (authorizing disclosures in litigation or other proceedings) has been simplified.

○ Routine use 2 has been revised to require that the constituent request, which is the subject of the disclosure, must be a ''written'' request.

○ The security breach-related routine use that was previously numbered as routine use 4 and was revised February 14, 2018 (see 83 FR 6591) is now numbered as routine use 4(a); a second security breach-related routine use that was added in that same notice on February 14, 2018, is now numbered as routine use 4(b).

○ A statement that disclosures are not made to consumer reporting agencies, which was previously numbered as routine use 5, has been removed.

• The Policies and Practices for Retention and Disposal of Records section has been updated to state that ''[u]pon approval of a disposition schedule by the National Archives and Records Administration (NARA)'' the records will be deleted when OCSE determines that the records are no longer needed.

• The Administrative, Technical, and Physical Safeguards section has been updated to:

○ Include information about the use of cloud service providers.

○ Clarify that the records consist of user registration records.

○ Describe the personnel authorized to access the records and state that their access is role-based.

○ Add information about how the facility where records are stored is physically protected.

• The procedures for making access, amendment, and notification requests now explain how to provide verification of identity (instead of stating that identity must be verified in accordance with HHS' Privacy Act regulations) and list date of birth and SSN as examples of identifying particulars to include for the purpose of distinguishing between records on individuals with the same name (instead of indicating that SSN should be included in every request).

Venkata Kondapolu,

Acting Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services.

SYSTEM NAME AND NUMBER:

OCSE National Directory of New Hires, HHS/ACF/OCSE, 09–80–0381.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Child Support Enforcement, Administration for Children and Families, 330 C St. SW, 5th Floor, Washington, DC 20201.

SYSTEM MANAGER(S):

Acting Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, 330 C St. SW, 5th Floor, Washington, DC 20201, or *Venkata.Kondapolu@acf.hhs.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 652(a)(9), 652(n), 653(a)(1) and (2), 653(c)(5), 653(i), and 659a(c)(2).

PURPOSE(S) OF THE SYSTEM:

The Office of Child Support Enforcement (OCSE) uses the NDNH primarily to assist states and Indian tribes or tribal organizations to locate parents; establish paternity and child support orders, including the establishment of medical support; and enforce child support and medical support orders. The NDNH is also used to support the following programs as specified in sections 453 and 463 of the Social Security Act (42 U.S.C. 653, 663): Temporary Assistance for Needy Families (TANF), child and family services, foster care and adoption assistance; to establish or verify eligibility of applicants for, or beneficiaries of, federal and state benefit programs; to recoup payments or delinquent debts under benefit programs and non-tax debts owed to the federal government; for administration of the tax code; and for certain research purposes likely to contribute to achieving the purposes of the TANF program or the federal/state/tribal child support program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who are newly hired ''employees'' within the meaning of chapter 24 of the Internal Revenue Code of 1986, 26 U.S.C. 3401, whose employers have furnished specified information to a State Directory of New Hires which, in turn, has furnished such information to the NDNH pursuant to 42 U.S.C. 653a(g)(2)(A).

(2) Individuals who are federal government employees whose employers have furnished specified information to the NDNH pursuant to 42 U.S.C. 653(n) and 653a(b)(1)(c). This category does not include individuals who are employees of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(3) Individuals to whom unemployment compensation or wages have been paid, and about whom the State Directory of New Hires has furnished such information to the NDNH pursuant to 42 U.S.C. 653(e)(3) and 653a(g)(2)(B). Such individuals may include independent contractors, in accordance with state law.

(4) Individuals whose information is contained within input records furnished by an authorized state or federal agency for matching to obtain employment, wage, or unemployment compensation information pertaining to those individuals for purposes of establishing or verifying eligibility of applicants for, or beneficiaries of, federal or state benefit programs, such as those funded under 42 U.S.C. 601 through 619 (Title IV–A of the Social Security Act, TANF). Other individuals whose information is contained within input records furnished for authorized matching are listed in the routine uses section of this system of records notice.

(5) Individuals involved in child support cases whose information is collected and disseminated to and from employers (and other payers of income) and state or Tribal IV–D child support enforcement agencies, courts, and other authorized entities for enforcement of child support orders by withholding of income.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Records pertaining to newly hired employees furnished by a State Directory of New Hires pursuant to 42 U.S.C. 653a(g)(2)(A). Records in the system are the name, address, SSN or Taxpayer Identification Number (TIN), and date of hire of the employee; the name, address, and federal identification number of the employer of such employee; and, at the option of the state, the date of birth or state of hire of the employee.

(2) Records pertaining to newly hired employees furnished by a federal department, agency, or instrumentality pursuant to 42 U.S.C. 653a(b)(1)(C), including the name, address, SSN (or TIN), and date of hire of the employee; and the name, address, and employer identification number of the employer. A Department of Defense status code, if available, is also included in the records.

(3) Records furnished by a State Directory of New Hires pertaining to wages and unemployment compensation paid to individuals pursuant to 42 U.S.C. 653a(g)(2)(B). Such records may also pertain to independent contractors, in accordance with state law.

(4) Records furnished by a federal department, agency, or instrumentality pertaining to wages paid to individuals pursuant to 42 U.S.C. 653(n), and wage and unemployment compensation records obtained pursuant to an agreement with the Department of Labor pursuant to 42 U.S.C. 653(e)(3).

(5) Input records furnished by a state or federal agency or other entity for authorized matching with the NDNH.

(6) Records collected from employers and other income sources pertaining to income withholding and medical support, including additional information, such as the following: termination date, final payment date and amount, contact information, children's names, health care coverage provider information (such as provider and contact name, federal employer identification number (FEIN), address, phone and fax numbers), third party provider information (such as payroll services providers), professional employer organization information (such as employer outsourced employee management), pension plan provider information, lump sum income information, order information, past due support information, amounts to withhold, and instructions for withholding.

RECORD SOURCE CATEGORIES:

Information is obtained from departments, agencies, or instrumentalities of the United States or any state; from entities authorized to match to receive NDNH information; and from health plan administrators, employers, and other income sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances under which ACF may disclose information from this system of records without the consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible. When ACF makes a disclosure under a routine use, ACF will prohibit redisclosures, or may permit only certain redisclosures, as required or authorized by law. Any information defined as ''return'' or ''return information'' under 26 U.S.C. 6103 (Internal Revenue Code) will not be disclosed unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

(1) Disclosure for Child Support Purposes.

Pursuant to 42 U.S.C. 653(a)(2), 653(b)(1)(A), and 653(c), information about the location of an individual or information that would facilitate the discovery of the location of an individual or identifying information about the individual may be disclosed, upon request filed in accordance with law, to an ''authorized person'' for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations. Other information that may be disclosed is information about an individual's wages (or other income) from, and benefits of, employment or other income and benefit sources, and information on the type, status, location, and amount of any assets of, or debts owed by or to, the individual. An ''authorized person'' is defined under 42 U.S.C. 653(c) as follows: (1) Any agent or attorney of any state or Indian Tribe or Tribal organization (as defined in 25 U.S.C. 5304(e) and (l)), having in effect a plan approved under title IV–D of the Social Security Act who has the duty or authority under such plans to seek, or to recover any amounts owed as child and spousal support (including, when authorized under the state plan, any official of a political subdivision); (2) the court that has authority to issue an order, or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court; (3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving assistance under a state program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 *et seq.*]) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against a noncustodial parent who has a duty to support and maintain any such child; (4) a state agency that is administering a program operated under a state plan under subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620 *et seq.*), or a state plan approved under subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 *et seq.*) or under part E of title IV of the Social Security Act (42 U.S.C. 670 *et seq.*); and (5) an entity designated as a Central Authority for child support enforcement in a foreign reciprocating country or a foreign treaty country for purposes specified in section 459A(c)(2) of the Social Security Act (42 U.S.C. 659a(c)(2)).

(2) Disclosure for Purposes Related to the Unlawful Taking or Restraint of a Child or Child Custody or Visitation.

Pursuant to 42 U.S.C. 653(b)(1), upon request of an ''authorized person,'' as defined in 42 U.S.C. 663(d)(2), information as to the most recent address and place of employment of a parent or child may be disclosed for the purpose of enforcing any state or federal law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody or visitation determination.

(3) Disclosure to Department of State under International Child Abduction Remedies Act.

Pursuant to 42 U.S.C. 653(b)(1) and 663(e), the most recent address and place of employment of a parent or child may be disclosed upon request to the Department of State, in its capacity as the Central Authority designated in accordance with section 7 of the International Child Abduction Remedies Act, 42 U.S.C. 11601 *et seq.,* for the purpose of locating the parent or child on behalf of an applicant.

(4) Disclosure to a Foreign Reciprocating Country and Foreign Treaty Country for Child Support Purposes.

Pursuant to 42 U.S.C. 652(n), 653(a)(2), 653(c)(5), and 659a(c)(2), information on the state of residence of

an individual sought for support enforcement purposes in cases involving residents of the United States and residents of foreign treaty countries or foreign countries that are the subject of a declaration under 52 U.S.C. 659a may be disclosed to the foreign country.

(5) Disclosure to the Treasury for Tax Administration Purposes.

Pursuant to 42 U.S.C. 653(i)(3), information may be disclosed to the Secretary of the Treasury for purposes of administering 26 U.S.C. 32 (earned income tax credit), administering 26 U.S.C. 3507 (advance payment of earned income tax credit), and verifying a claim with respect to employment in a tax return.

(6) Disclosure to the Social Security Administration for Verification.

Pursuant to 42 U.S.C. 653(j)(1), the names, SSNs, and birth dates of individuals about whom information is maintained may be disclosed to the Social Security Administration to the extent necessary for verification of the information by the Social Security Administration.

(7) Disclosure for Locating an Individual for Paternity Establishment or in Connection with a Support Order.

Pursuant to 42 U.S.C. 653(j)(2), the results of a comparison between records in this system and the Federal Case Registry of Child Support Orders may be disclosed to the state or Tribal IV–D child support enforcement agency responsible for the case for the purpose of locating an individual in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order.

(8) Disclosure to State Agencies Operating Specified Programs.

Pursuant to 42 U.S.C. 653(j)(3), information may be disclosed to a state to the extent and with the frequency that the Secretary determines to be effective in assisting the state to carry out its responsibilities under child support programs operated under 42 U.S.C. 651 through 669b (Title IV–D of the Social Security Act, Child Support and Establishment of Paternity), child and family services programs operated under 42 U.S.C. 621 through 629m (Title IV–B of the Social Security Act), Foster Care and Adoption Assistance programs operated under 42 U.S.C. 670 through 679c (Title IV–E of the Social Security Act), and assistance programs funded under 42 U.S.C. 601 through 619 (Title IV–A of the Social Security Act, Temporary Assistance for Needy Families).

(9) Disclosure to the Commissioner of Social Security.

Pursuant to 42 U.S.C. 653(j)(4), information may be disclosed to the Commissioner of Social Security for the purpose of verifying eligibility for Social Security Administration programs and administering such programs. Additionally, information may be disclosed to the Commissioner for the purpose of administering the Ticket to Work program.

(10) Disclosure for Authorized Research Purposes.

Pursuant to 42 U.S.C. 653(j)(5), data in the NDNH, including information reported by employers pursuant to 42 U.S.C. 653a(b), may be disclosed, without personal identifiers, for research purposes found by the Secretary to be likely to contribute to achieving the purposes of 42 U.S.C. 651 through 669b (Title IV–D of the Social Security Act, Child Support and Establishment of Paternity) and 42 U.S.C. 601 through 619 (Title IV–A of the Social Security Act, Temporary Assistance for Needy Families).

(11) Disclosure to Secretary of Education for Collection of Defaulted Student Loans.

Pursuant to 42 U.S.C. 653(j)(6), the results of a comparison of information in this system with information in the custody of the Secretary of Education may be disclosed to the Secretary of Education for the purpose of collection of debts owed on defaulted student loans, or refunds on overpayments of grants, made under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.* and 42 U.S.C. 2751 *et seq.*) and, after removal of personal identifiers, for the purpose of conducting analyses of student loan defaults.

(12) Disclosure to Secretary of Housing and Urban Development for Verification Purposes.

Pursuant to 42 U.S.C. 653(j)(7), information regarding an individual participating in a housing assistance program (United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*); 12 U.S.C. 1701s, 1701q, 1715l(d)(3), 1715l(d)(5), 1715z–1; or 42 U.S.C. 8013) may be disclosed to the Secretary of Housing and Urban Development for the purpose of verifying the employment and income of the individual and, after removal of personal identifiers, for the purpose of conducting analyses of the employment and income reporting of such individuals.

(13) Disclosure to State Unemployment Compensation Agency for Program Purposes.

Pursuant to 42 U.S.C. 653(j)(8), information on an individual for whom a state agency administering an unemployment compensation program under federal or state law has furnished the name and Social Security number, and information on such individual's employer, may be disclosed to the state agency for the purposes of administering the unemployment compensation program.

(14) Disclosure to Secretary of the Treasury for Debt Collection Purposes.

Pursuant to 42 U.S.C. 653(j)(9), information pertaining to a person who owes the United States delinquent nontax debt and whose debt has been referred to the Secretary of the Treasury in accordance with 31 U.S.C. 3711(g) may be disclosed to the Secretary of the Treasury for purposes of collecting the debt.

(15) Disclosure to State Agency for Supplemental Nutrition Assistance Program Purposes.

Pursuant to 42 U.S.C. 653(j)(10), information on an individual and the individual's employer may be disclosed to a state agency responsible for administering a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 *et seq.*) for the purposes of administering the program.

(16) Disclosure to the Secretary of Veterans Affairs for Verification Purposes.

Where authorized under 42 U.S.C. 653, information about an individual applying for or receiving certain benefits, compensation, or services may be disclosed to the Secretary of Veterans Affairs for the purpose of verifying the employment and income of the individual and, after removal of personal identifiers, to conduct analyses of the employment and income reporting of such individuals.

(17) Disclosure for Law Enforcement Purpose.

Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for identifying, investigating, and prosecuting noncustodial parents who knowingly fail to pay their support obligations and meet the criteria for federal prosecution under 18 U.S.C. 228. The information must be relevant to the violation of criminal nonsupport, as stated in the Deadbeat Parents Punishment Act, 18 U.S.C. 228.

(18) Disclosure to Department of Justice or in Proceedings.

Records may be disclosed to support the Department of Justice (DOJ) or a court or other adjudicative body in litigation or other proceedings when HHS or any of its components, or any employee of HHS in his or her official capacity, or any employee of HHS in his or her individual capacity where the DOJ or HHS has agreed to represent the employee, or the United States, is a party to the proceedings or has an interest in the proceedings and, by

careful review, HHS determines that the records are both relevant and necessary to the proceedings.

(19) Disclosure to Congressional Office.

Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of the individual.

(20) Disclosure to Contractor to Perform Duties.

Records may be disclosed to a contractor performing or working on a contract for HHS who has a need to have access to the information in the performance of its duties or activities for HHS in accordance with law and with the contract.

(21) Disclosure in the Event of a Security Breach.

(a) Information may be disclosed to appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records; (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(b) Information may be disclosed to another federal agency or federal entity when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

In addition to the above routine use disclosures published pursuant to the Privacy Act at 5 U.S.C. 552a(b)(3), the Privacy Act permits an agency to make other disclosures described at 5 U.S.C. 552a(b) without the data subject's consent and without publishing a routine use. Most of those other disclosures are not, in fact, permissible for NDNH data, due to access restrictions stated in the NDNH statute at 42 U.S.C. 653(l). ACF may lawfully disclose NDNH data to the Comptroller General without the data subject's consent, as permitted by 5 U.S.C. 552a(b)(10), and will do so upon request from the Comptroller General, because such disclosures are required by 31 U.S.C. 721 notwithstanding the access restrictions imposed by the NDNH statute.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in the NDNH are stored electronically at the Social Security Administration's National Support Center and the OCSE Data Center. Historical logs and system backups are stored off-site at an alternate location.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records maintained in the NDNH are retrieved by the SSN (or TIN) of the individual to whom the record pertains. Records collected and disseminated from employers and other income sources are retrieved by state Federal Information Processing Standard (FIPS) codes and employer identification numbers, and records collected and disseminated from state IV–D child support enforcement agencies are retrieved by state FIPS codes.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records maintained in the NDNH are retained for 24 months after the date of entry and are then deleted from the database pursuant to 42 U.S.C. 653(i)(2)(A) and the NARA approved disposition schedule, N1–292–10–2. In accordance with 42 U.S.C. 653(i)(2)(B), OCSE shall not have access, for child support enforcement purposes, to quarterly wage and unemployment insurance information in the NDNH if 12 months have elapsed since the information was provided by a State Directory of New Hires pursuant to 42 U.S.C. 653A(g)(2)(B) and there has not been a match resulting from the use of such information in any information comparison. Notwithstanding these retention and disposal requirements, OCSE may retain such samples of data entered into the NDNH as OCSE may find necessary to assist in carrying out its responsibility to provide access to data in the NDNH for research purposes found by OCSE to be likely to contribute to achieving the purposes of Part A or Part D of title IV of the Social Security Act, but without personal identifiers, pursuant to 42 U.S.C. 653(i)(2)(C), (j)(5). Samples are retained only so long as necessary to complete such research. Input records for authorized matching to obtain NDNH information and records pertaining to income withholding collected and disseminated by OCSE are retained for 60 days. Audit logs, including information such as employer identification numbers, FIPS code numbers, document tracking numbers, case identification numbers and order identifier, are retained up to 5 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The system leverages cloud service providers that maintain an authority to operate in accordance with applicable laws, rules, and policies, including Federal Risk and Authorization Management Program (FedRAMP) requirements. Specific administrative, technical, and physical controls are in place to ensure that the records collected and maintained in the NDNH are secure from unauthorized access. Access to the records is restricted to authorized personnel who are advised of the confidentiality of the records and the civil and criminal penalties for misuse and who sign a nondisclosure oath to that effect. Personnel are provided privacy and security training before being granted access to the records and annually thereafter.

Logical access controls are in place to limit access to the records to authorized personnel, to limit their access based on their roles, and to prevent browsing. The records are processed and stored in a secure environment. All records are stored in an area that is physically safe from access by unauthorized persons at all times.

Safeguards conform to the HHS Information Security and Privacy Program, which may be found at *https://www.hhs.gov/ocio/securityprivacy/index.html.*

RECORD ACCESS PROCEDURES:

To request access to a record about you in this system of records, submit a written access request to the System Manager. The request should include your name, telephone number and/or email address, current address, and signature, and sufficient particulars (such as, date of birth or SSN) to enable the System Manager to distinguish between records on subject individuals with the same name. To verify your identity, your signature must be notarized or your request must include your written certification that you are the individual who you claim to be and that you understand that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to $5,000.

CONTESTING RECORD PROCEDURES:

To request correction of a record about you in this system of records, submit a written amendment request to

the System Manager. The request must contain the same information required for an access request and include verification of your identity in the same manner required for an access request. In addition, the request must reasonably identify the record and specify the information contested, the corrective action sought, and the reasons for requesting the correction; it should include supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES:

To find out if this system of records contains a record about you, submit a written notification request to the System Manager. The request must identify this system of records, contain the same information required for an access request, and include verification of your identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 17906 (Apr. 2, 2015), updated 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

OCSE Debtor File, HHS/ACF/OCSE, 09–80–0383.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Child Support Enforcement, Administration for Children and Families, 330 C St. SW, 5th Floor, Washington, DC 20201.

SYSTEM MANAGER(S):

Acting Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, 330 C St. SW, 5th Floor, Washington, DC 20201, or *Venkata.Kondapolu@acf.hhs.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 652, 653, 664, and 666.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the OCSE Debtor File is to improve states' abilities to collect past due child support. The OCSE Debtor File facilitates OCSE's execution of its responsibility to perform the following duties: Transmit to the Secretary of State a certification by a state IV–D child support agency that an individual owes arrearages of child support in an amount exceeding $2,500 for action (with respect to denial, revocation, or limitation of passports) pursuant to 42 U.S.C. 652(k)(1); through the Federal Parent Locator Service (FPLS), to aid state IV–D agencies and financial institutions doing business in two or more states in operating a data match system pursuant to 42 U.S.C. 652(l) (see also 42 U.S.C. 666(a)(17)(A)(i)) and to aid in the transmission of information pertaining to a lien or levy of financial institution accounts located as a result of that data match system authorized under 42 U.S.C. 652(a)(7), 666(c)(1)(G), and 666(c)(1)(G)(ii); through the FPLS, to compare information regarding individuals owing past due support with income and benefits information of such individuals, including lump sum payment information, and furnish information resulting from the data matches to the state agencies responsible for collecting child support from the individuals pursuant to 42 U.S.C. 652(a)(7), 653(a)(2), 666(a)(4) and 666(c)(1)(G); through the FPLS, to compare information regarding individuals owing past due support with specified information maintained by insurers (or their agents) and furnish information resulting from the data matches to the state agencies responsible for collecting child support from the individuals pursuant to 42 U.S.C. 652(m); to assist the Secretary of the Treasury in withholding from refunds of federal taxes paid an amount owed by an individual owing past due child support pursuant to 42 U.S.C. 664; and to assist state IV–D child support enforcement agencies in the collection of past due child support through the administrative offset of certain federal payments pursuant to the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), Executive Order 13019, and 31 CFR part 285; and to improve states' abilities to collect past due and current support from individuals who are owed workers' compensation benefits pursuant to 42 U.S.C. 653(e)(1); 666(a)(1)(A), (b)(1) and (8), and (c)(1)(F) and (G); and 653(b)(1)(B). OCSE operates the FPLS pursuant to 42 U.S.C. 652(a)(9) and 42 U.S.C. 653(a)(1).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals owing past due child support, as indicated by a state agency administering a child support enforcement program pursuant to 42 U.S.C. 651 through 669b (Title IV, Part D, of the Social Security Act) are covered by this system.

Additional individuals whose records are contained in input files for authorized matching with records in this system are also covered by this system. These additional individuals include those claiming or receiving income or benefits, such as federal tax refunds, federal administrative payments, workers' compensation or insurance claims, settlements, awards, and payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Records pertaining to individuals owing past due child support, as indicated by a state agency administering a child support enforcement program, including the name, SSN or TIN of such individual, date of birth, place of birth, mailing address, the amount of past due child support owed by the individual, adjustments to such amount, information on each enforcement remedy applicable to the individual to whom the record pertains, as indicated by a state IV–D child support enforcement agency; the amount of past due support collected as a result of each such remedy; and a history of updates by the state agency to the records.

(2) Records of the results of a comparison between records in the OCSE Debtor File pertaining to individuals owing past due child support and information maintained by the Secretary of the Treasury concerning the following amounts payable to such individuals: Refunds of federal taxes; salary, wage, and retirement benefits; income and benefits information; vendor payments and expense reimbursement payments and travel payments; and information pertaining to the collection of those amounts by state child support enforcement agencies.

(3) Records of the results of a comparison between records in the OCSE Debtor File pertaining to individuals owing past due child support and information provided by a financial institution doing business in two or more states, including the name, record address, SSN (or TIN) or other identifying number of each such individual, and information about any account held by the individual and maintained at such institution, including the amounts to withhold from the account, date of withholding of the amounts, and other information pertaining to the placement of a lien or levy by a state child support enforcement agency on the account.

(4) Records pertaining to individuals claiming or receiving periodic or lump sum workers' compensation payments (including name, record address, SSN (or TIN), claim numbers, and workers' compensation insurers) that are furnished by a workers' compensation agency and records of the results of a comparison between those records and

records in the OCSE Debtor File pertaining to individuals owing past due child support.

(5) Records pertaining to individuals whose information is maintained by an insurer (or its agent) concerning insurance claims, settlements, awards, and payments, and the results of a comparison between records in the OCSE Debtor File pertaining to individuals owing past due child support, and income and benefits information, including lump sum payment information and information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments and information pertaining to state child support enforcement agency withholding of these amounts.

(6) Records pertaining to individuals claiming or receiving other periodic or lump sum state or federal benefits, or other income, and the results of a comparison between those individuals and individuals owing past due support.

RECORD SOURCE CATEGORIES:

Information is obtained from departments, agencies, or instrumentalities of the United States, or any state, and from multistate financial institutions and insurers (or their agents), and other income sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances under which ACF may disclose information from this system of records without the consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible. Any information defined as ''return'' or ''return information'' under 26 U.S.C. 6103 (Internal Revenue Code) is not disclosed unless authorized by a statute, the IRS, or IRS regulations.

(1) Disclosure to the Treasury to Withhold Past Due Support.

Pursuant to 42 U.S.C. 664 and the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), information pertaining to an individual owing past-due child support may be disclosed to the Secretary of the Treasury for the purpose of withholding the past due support from amounts payable as refunds of federal taxes; salary, wage, and retirement payments; vendor payments; and expense reimbursement payments and travel payments.

(2) Disclosure to State Department for Passport Purposes.

Pursuant to 42 U.S.C. 652(k), information pertaining to an individual owing past due child support in a specified amount, as certified by a state child support enforcement agency, may be disclosed to the Secretary of State for the purpose of revoking, restricting, limiting, or denying a passport to the individual.

(3) Disclosure to Financial Institution to Collect Past Due Support.

Pursuant to 42 U.S.C. 652(l), information pertaining to an individual owing past due child support may be disclosed to a financial institution doing business in two or more states to identify an individual who maintains an account at the institution for the purpose of collecting past due support. Information pertaining to requests by the state child support enforcement agencies for the placement of a lien or levy of such accounts may also be disclosed.

(4) Disclosure to Insurer to Collect Past Due Support.

Pursuant to 42 U.S.C. 652(m), information pertaining to an individual owing past due child support may be disclosed to an insurer (or its agent) to identify an individual with an insurance claim, settlement, award, or payment for the purpose of collecting past due support.

(5) Disclosure to Workers' Compensation Agencies to Collect Current and Past Due Support.

Pursuant to 42 U.S.C. 653(e)(1); 666(a)(1)(A), (b)(1) and (8), and (c)(1)(F) and (G), information pertaining to an individual owing past due child support may be disclosed to a workers' compensation agency to identify an individual who is applying for or receiving periodic or lump sum workers' compensation for the purpose of collecting current and past due support.

(6) Disclosure of Treasury Information to State Child Support Enforcement Agency of Comparison Information for Assistance in Collecting Past Due Support.

Pursuant to 42 U.S.C. 664 and the Debt Collection Improvement Act 1996 (Pub. L. 104–134), the results of a comparison of information pertaining to an individual owing past due child support and information maintained by the Secretary of Treasury pertaining to amounts payable to the individual for refunds of federal taxes; salary, wage, and retirement benefits; vendor payments; expense reimbursement payments; or travel payments may be disclosed to a state IV–D child support agency for the purpose of assisting state agencies in collecting past due support.

(7) Disclosure of Financial Institution Information to State Child Support Enforcement Agency of Comparison Information for Assistance in Collecting Past Due Support.

Pursuant to 42 U.S.C. 652(l), the results of a comparison between information pertaining to an individual owing past due child support and information provided by multistate financial institutions may be disclosed to a state child support enforcement agency for the purpose of assisting state agencies in collecting past due support. Information pertaining to responses to requests by the state child support enforcement agencies for the placement of a lien or levy of such accounts may also be disclosed.

(8) Disclosure of Insurance Information to State Child Support Enforcement Agency for Assistance in Collecting Past Due Support.

Pursuant to 42 U.S.C. 652(m), the results of a comparison between information pertaining to an individual owing past due child support and information maintained by an insurer (or its agent) concerning insurance claims, settlements, awards, and payments may be disclosed to a state IV–D child support enforcement agency for the purpose of assisting state agencies in collecting past due support.

(9) Disclosure of Workers' Compensation Information to State Child Support Enforcement Agency for Assistance in Collecting Past Due and Current Support.

Pursuant to 42 U.S.C. 653(b)(1)(B), the results of a comparison between the information pertaining to an individual owing past due child support and information maintained by a workers' compensation agency concerning workers' compensation payments may be disclosed to a state IV–D child support enforcement agency for the purpose of assisting states in collecting past due support and any current support owed by the individual.

(10) Disclosure of Income and Benefits Information to State Child Support Enforcement Agency for Assistance in Collecting Past Due and Current Support.

Pursuant to 42 U.S.C. 652(a)(7), 653(a)(2), 666(a)(4), and 666(c)(1)(G), the results of a comparison between the information pertaining to an individual owing past due child support and income and benefits information of such individuals, including lump sum payment information, may be disclosed for the purpose of assisting states in collecting past due support and any current support owed by the individual.

(11) Disclosure for Law Enforcement Purpose.

Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for

identifying, investigating, and prosecuting noncustodial parents who knowingly fail to pay their support obligations and meet the criteria for federal prosecution under 18 U.S.C. 228. The information must be relevant to the violation of criminal nonsupport, as stated in the Deadbeat Parents Punishment Act, 18 U.S.C. 228.

(12) Disclosure to Department of Justice or in Proceedings.

Records may be disclosed to support DOJ or a court or other adjudicative body in litigation or other proceedings when HHS or any of its components, or any employee of HHS in his or her official capacity, or any employee of HHS in his or her individual capacity where the DOJ or HHS has agreed to represent the employee, or the United States, is a party to the proceedings or has an interest in the proceedings and, by careful review, HHS determines that the records are both relevant and necessary to the proceedings.

(13) Disclosure to Contractor to Perform Duties.

Information may be disclosed to a contractor performing or working on a contract for HHS, who has a need to have access to the information in the performance of its duties or activities for HHS in accordance with law and with the contract.

(14) Disclosure to Congressional Office.

Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of the individual.

(15) Disclosure in the Event of a Security Breach.

(a) Information may be disclosed to appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records; (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(b) Information may be disclosed to another federal agency or federal entity when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach, or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in the OCSE Debtor File are stored electronically at the Social Security Administration's National Support Center. Historical logs and system backups are stored offsite at an alternate location.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records maintained in the OCSE Debtor File are retrieved by the SSN or TIN of the individual to whom the record pertains provided, however, that for the purpose of comparing information in the OCSE Debtor File with information provided by workers' compensation agencies or insurers (or their agents), records in the OCSE Debtor File may be retrieved by the name of the individual and either the date of birth or the address of the individual. For the purpose of collecting and disseminating information provided by state child support agencies and financial institutions, information is retrieved by the FEIN of the financial institution and the state FIPS code of the state child support agency and, where requested, by the state child support case identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Upon approval of a disposition schedule by NARA, the records will be deleted when OCSE determines that the records are no longer needed for administrative, audit, legal, or operational purposes, and in accordance with the NARA-approved schedule. Approved disposal methods for electronic records and media include overwriting, degaussing, erasing, disintegration, pulverization, burning, melting, incineration, shredding, or sanding.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The system leverages cloud service providers that maintain an authority to operate in accordance with applicable laws, rules, and policies, including FedRAMP requirements. Specific administrative, technical, and physical controls are in place to ensure that the records collected and maintained in the OCSE Debtor File are secure from unauthorized access. Access to the records is restricted to authorized personnel, based on their roles, who are advised of the confidentiality of the records and the civil and criminal penalties for misuse and who sign a nondisclosure oath to that effect. Personnel are provided privacy and security training before being granted access to the records and annually thereafter.

Logical access controls are in place to limit access to the records to authorized personnel and to prevent browsing. The records are processed and stored in a secure environment. All records are stored in an area that is physically safe from access by unauthorized persons at all times.

Safeguards conform to the HHS Information Security and Privacy Program, which can be found at *https://www.hhs.gov/ocio/securityprivacy/index.html.*

RECORD ACCESS PROCEDURES:

To request access to a record about you in this system of records, submit a written access request to the System Manager. The request should include your name, telephone number and/or email address, current address, signature, and sufficient particulars (such as date of birth or SSN) to enable the System Manager to distinguish between records on subject individuals with the same name. To verify your identity, your signature must be notarized or your request must include your written certification that you are the individual you claim to be and that you understand that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to $5,000.

CONTESTING RECORD PROCEDURES:

To request correction of a record about you in this system of records, submit a written amendment request to the System Manager. The request must contain the same information required for an access request and include verification of your identity in the same manner required for an access request. In addition, the request must reasonably identify the record and specify the information contested, the corrective action sought, and the reasons for requesting the correction; it should include supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES:

To find out if this system of records contains a record about you, submit a written notification request to the System Manager. The request must

identify this system of records, contain the same information required for an access request, and include verification of your identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 17909 (Apr. 2, 2015), updated 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Child Support Portal Registration Records, HHS/ACF/OCSE, 09–80–0387.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Child Support Enforcement, Administration for Children and Families, 330 C St. SW, 5th Floor, Washington, DC 20201.

SYSTEM MANAGER(S):

Acting Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, 330 C St. SW, 5th Floor, Washington, DC 20201, or *Venkata.Kondapolu@acf.hhs.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 652(a)(7) and (9) and 653(a)(1).

PURPOSE(S) OF THE SYSTEM:

The Child Support Portal system of records covers information provided by individuals who register to use the Child Support Portal's services to access information maintained in other OCSE systems of records. The Child Support Portal is a conduit (pass-through system) that provides authorized users with access to select, highly confidential child support enforcement case information maintained in the following systems of records:

- The OCSE National Directory of New Hires, HHS/ACF/OCSE, 09–80–0381;
- the OCSE Debtor File, HHS/ACF/OCSE, 09–80–0383; and
- the OCSE Federal Case Registry of Child Support Orders (FCR), HHS/ACF/OCSE, 09–80–0385.

The individuals who register for access to use the Child Support Portal's services are designated representatives of the following types of agencies and organizations: Employers, financial institutions and insurers, state and tribal child support enforcement agencies, and OCSE. OCSE uses the registrant information provided by the individuals and their affiliated entities to validate the individuals' and organizations' eligibility for access and authenticate their identity.

Purposes for which individuals register to access the Child Support Portal's services include, primarily, providing information to be included in the other systems of records identified above, and, in limited cases, receiving information from one of those systems of records. For example:

- OCSE personnel use the Child Support Portal to submit, request, and receive child support program reporting information that does not include personally identifiable information (PII), such as state plan and program self-assessment reports.
- OCSE contractors access the Child Support Portal to perform system administrative functions.
- Representatives of employers use the Child Support Portal's web-based functions to provide OCSE with the employer's identifying and contact information, and employee status changes. Employers also use the Child Support Portal to provide lump sum payment information, and to provide a list of the states in which they operate and to designate a single reporting state to submit new hire information to the National Directory of New Hires.
- Representatives of financial institutions and insurers use the Child Support Portal's web-based functions as a secure means to provide information on financial assets and potential insurance payouts for delinquent obligors.
- Representatives of a state child support agency directly use, and representatives of tribes under contract with the state child support agency indirectly use (*i.e.,* through the state agency), the Child Support Portal's web-based functions to submit and access child support case information regarding obligor location, income and assets, and other inter-jurisdictional case information in the NDNH and Federal Case Registry systems of records, as authorized by routine uses published for those systems of records. (Location information in those systems of records includes mailing addresses obtained from the Department of the Treasury's Internal Revenue Service based on written requests under a Taxpayer Address Request Agreement pursuant to 26 U.S.C. 6103(l)(6) that limits disclosure of the addresses to federal, state, and local child support agencies and their agents only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.) State and tribal child support agencies also use the Child Support Portal to submit federally required reports, such as state plans and program self-assessment reports, including child support agency performance, agency contact information, and child support program information that does not include personal identifiers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The registration records are about OCSE personnel and contractors; federal, state, and tribal agency employees; and individual representatives and contractors of employers, insurance companies, and financial institutions, who register to use the Child Support Portal's services for the purpose(s) of submitting or accessing information to process child support cases.

(For information on the categories of individuals whose information is accessed or transmitted via the Child Support Portal, which is maintained in other OCSE systems of records, please see the system of records notices covering those other systems, identified in the Purpose(s) section.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of personal information furnished by individuals seeking access to the Child Support Portal's services, including the following: The individual's name, user name or ID number, business function (*e.g.,* enforcement), workload identifier (*e.g.,* alpha work caseload), employer, county of employment, telephone number, telephone service provider, tribal affiliation, SSN, date of birth, email address, name, address, and FEIN of the individual's employer; selected security questions and responses; and individual passwords for access.

(For information on the categories of records transmitted through the Child Support Portal, which is maintained in other OCSE systems of records, please see the system of records notices covering those other systems, identified in the Purpose(s) section.)

RECORD SOURCE CATEGORIES:

Information in the user registration records is obtained from the subject individual who registers for access privileges to use the Child Support Portal, and from the individual's affiliated business or organization and third parties conducting business on behalf of the business or organization.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

These routine uses specify circumstances under which ACF may

disclose Portal registration information from this system of records without the consent of the subject individual. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible.

(For information on routine uses of the records transmitted through the Child Support Portal, which is maintained in other OCSE systems of records, please see the System of Records Notices covering those other systems, identified in the Purpose(s) section.)

(1) Disclosure to Department of Justice or in Proceedings.

Records may be disclosed to support DOJ or a court or other adjudicative body in litigation or other proceedings when HHS or any of its components, or any employee of HHS in his or her official capacity, or any employee of HHS in his or her individual capacity where the DOJ or HHS has agreed to represent the employee, or the United States, is a party to the proceedings or has an interest in the proceedings and, by careful review, HHS determines that the records are both relevant and necessary to the proceedings.

(2) Disclosure to Congressional Office.

Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of the individual.

(3) Disclosure to Contractor to Perform Duties.

Records may be disclosed to a contractor performing or working on a contract for HHS, who is authorized to access the information in the performance of its duties or activities for HHS in accordance with law and with the contract.

(4) Disclosure in the Event of a Security Breach.

(a) Information may be disclosed to appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records; (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(b) Information may be disclosed to another federal agency or federal entity when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach, or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The user registration records are stored electronically at the OCSE Data Center.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the SSN of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Upon approval of a disposition schedule by NARA, the user registration records will be deleted when OCSE determines that the records are no longer needed for administrative, audit, legal, or operational purposes, and in accordance with the NARA-approved schedule. Approved disposal methods for electronic records and media include overwriting, degaussing, erasing, disintegration, pulverization, burning, melting, incineration, shredding, or sanding.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The system leverages cloud service providers that maintain an authority to operate in accordance with applicable laws, rules, and policies, including FedRAMP requirements. Specific administrative, technical, and physical controls are in place to ensure that the user registration records are secure from unauthorized access. Access to the registration records is restricted to authorized personnel (including system support contractors) who manage Child Support Portal registration tasks, and whose access is limited based on role. They are provided privacy and security training before being granted access to the records and annually thereafter.

Logical access controls are in place to limit access to the registration records to authorized personnel. The records are processed and stored in a secure environment. The individual's SSN is encrypted; access to, and viewing of, the individual's SSN is restricted to designated employees and contractors of OCSE solely for the purpose of verifying the identity of a registrant or a user of the Child Support Portal. All records are stored in an area that is physically safe from access by unauthorized persons at all times. The facility where records are stored are protected by security guards and cameras.

Safeguards conform to the HHS Information Security and Privacy Program, which can be found at *https://www.hhs.gov/ocio/securityprivacy/index.html.*

RECORD ACCESS PROCEDURES:

To request access to a record about you in this system of records, submit a written request to the System Manager. The request should include your name, telephone number and/or email address, current address, signature, and sufficient particulars (such as date of birth or SSN) to enable the System Manager to distinguish between records on subject individuals with the same name. To verify your identity, your signature must be notarized or your request must include your written certification that you are the individual who you claim to be and that you understand that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to $5,000.

CONTESTING RECORD PROCEDURES:

To request correction of a record about you in this system of records, submit a written amendment request to the System Manager. The request must contain the same information required for an access request and include verification of your identity in the same manner required for an access request. In addition, the request must reasonably identify the record and specify the information contested, the corrective action sought, and the reasons for requesting the correction; it should include supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES:

To find out if this system of records contains a record about you, submit a written notification request to the System Manager. The request must identify this system of records, contain the same information required for an access request, and include verification of your identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 17915 (Apr. 2, 2015), updated 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2022–01066 Filed 1–21–22; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Administration for Native Americans Project Outcome Assessment Survey; (OMB #0970–0379)

AGENCY: Administration for Native Americans, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the form Administration for Native Americans (ANA) Project Outcome Assessment Survey (OMB #0970–0379, expiration 6/30/2022). There are minor updates and changes requested to the form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The information collected by the Project Outcome Assessment Survey is needed for two main reasons: (1) To collect crucial information required to report on the ANA established Government Performance and Results Act measures, and (2) to properly abide by ANA's congressionally mandated statute (42 U.S.C. 2991 *et seq.*) found within the Native American Programs Act of 1974, as amended, which states that ANA will evaluate projects assisted through ANA grant dollars ''including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services.'' The information collected with this survey will fulfill ANA's statutory requirement and will also serve as an important planning and performance tool for ANA.

Updates to this information collection address the Indian Community Economic Enhancement Act of 2020 (Pub. L. 116–261). It also addresses the flexibilities and assistance offered under COVID–19 recovery assistance.

Respondents: Tribal Governments, Native American nonprofit organizations, and Tribal Colleges and Universities.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ANA Project Outcome Assessment Survey	85	1	6	510

Estimated Total Annual Burden Hours: 510.

Comments: The Department specifically requests comments 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; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 42 U.S.C. 2992)

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–01286 Filed 1–21–22; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-Day Information Collection: Indian Health Service Purchased/Referred Care Proof of Residency (OMB No. 0917–0040)

AGENCY: Indian Health Service.

ACTION: Notice and request for comments; request for extension of approval.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, which requires 60 days for public comment on proposed information collection projects, the Indian Health Service (IHS) invites the general public to take this opportunity to comment on the information collection Office of Management and Budget (OMB) Control Number 0917–0040, titled, Purchased/Referred Care Proof of Residency. The purpose of this notice is to allow 60 days for public comment. A copy of the supporting statement is available at *www.regulations.gov* (see Docket ID: IHS_FRDOC_0001).

DATES: March 25, 2022. Your comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

For Comments: Submit comments to (Mr. Robert Jim Lyon) by Email at *Robert.Lyon@ihs.gov.*

Comments submitted in response to this notice will be made available to the public by publishing them in the 30-day **Federal Register** notice for this information collection. For this reason, please do not include information of a confidential nature, such as sensitive personal information or proprietary information. If comments are submitted via email, the 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Evonne Bennett, Information

Collection Clearance Officer at: *Evonne.Bennett@ihs.gov* or 301–443–4750.

SUPPLEMENTARY INFORMATION: This previously approved information collection project was last published in the **Federal Register** on September 25, 2018, and allowed 30 days for public comment. No public comment was received in response to the notice. This notice announces our intent to submit this collection, which expires March 31, 2022, to OMB for approval of an extension, and to solicit comments on specific aspects for the proposed information collection. *Title:* Purchased/Referred Care Proof of Residency. *OMB Control Number:* 0917–0040. *Need and Use of Information Collection:* The IHS Purchased/Referred Care Program needs the information requested on the PRC Proof of Residency form to verify that individuals seeking medical services through a PRC program meet the residency requirements specific to PRC under 42 CFR 136.23. *Agency Form Number:* IHS 976. *Members of Affected Public:* Individuals/Households. *Status of the Proposed Information Collection:* Renewal request. *Type of Respondents:* Individuals. The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hours.

Data collection instrument(s)	Estimated number of respondents	Responses per respondent	Annual number of responses	Average burden hour per response *	Total annual burden hours
Individual Patient Count	77,185	1	77,185	3/60	3,859.25
Total	77,185	1	77,185	3/60	3,859.25

* For ease of understanding, the average burden per response is 3 minutes.

There are no direct costs to respondents to report.

Requests for Comments: Your written comments and/or suggestions are invited on one or more of the following points:

(a) Whether the information collection activity is necessary to carry out an agency function;

(b) whether the agency processes the information collected in a useful and timely fashion;

(c) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information);

(d) whether the methodology and assumptions used to determine the estimates are logical;

(e) ways to enhance the quality, utility, and clarity of the information being collected; and

(f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Elizabeth A. Fowler,

Acting Deputy Director, Indian Health Service.

[FR Doc. 2022–01250 Filed 1–21–22; 8:45 am]

BILLING CODE 4165–16–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: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: February 17–18, 2022.

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: Benjamin Greenberg Shapero, Ph.D., Scientific Review Officer, Center for Scientific, Review National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Clinical Studies of Mental Illness.

Date: February 17, 2022.

Time: 2:00 p.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: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Maximizing Investigators' Research Award A Study Section.

Date: February 22–23, 2022.

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: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–357–9112, *smirnove@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics Study Section.

Date: February 23–25, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Integrative Myocardial Physiology/Pathophysiology A Study Section.

Date: February 23–24, 2022.

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: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Noninvasive Neuromodulation and Neuroimaging Technologies.
Date: February 23, 2022.
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: Pablo M. Blazquez Gamez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *pablo.blazquezgamez@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.
Date: February 23–25, 2022.
Time: 12:00 p.m. to 9:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Tina Tze-Tsang Tang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Suite 3030, Bethesda, MD 20817, (301) 435–4436, *tangt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Vision Imaging, Bioengineering and Low Vision Technology Development.
Date: February 24–25, 2022.
Time: 8:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 240–762–3076, *susan.gillmor@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.
Date: February 24–25, 2022.
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: Jennifer Kielczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *jennifer.kielczewski@nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Prevention Study Section.
Date: February 28-March 1, 2022.
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: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–594–7945, *kotliars@mail.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; Mechanisms of Cancer Therapeutics—2 Study Section.
Date: February 28–March 1, 2022.
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: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Molecular Oncogenesis Study Section.
Date: February 28–March 1, 2022.
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: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–5902, *caojn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Membrane Biochemistry and Biophysics.
Date: February 28, 2022.
Time: 10:00 a.m. to 8:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Interdisciplinary Molecular Sciences and Training Member Conflict.
Date: February 28, 2022.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *john.laity@nih.gov.*

Information is also available on the Institute's/Center's home page: *https://public.csr.nih.gov/StudySections/DBIB/GGG,* where an agenda and any additional information for the meeting will be posted when available.

(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: January 18, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01230 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Awards Review Meeting.
Date: February 23, 2022.
Time: 11:00 a.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 18, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01233 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS BRAIN Review (U01 and R01) Meeting.

Date: February 17–18, 2022.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Mir Ahamed Hossain, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *mirahamed.hossain@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 18, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01241 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NCCIH Training and Education Review Panel (CT).

Date: March 10–11, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative Health, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Patrick Colby Still, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, *patrick.still@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: January 18, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01231 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Eye Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Eye Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Eye Institute.

Date: February 23–25, 2022.

Time: 10:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate review of Ophthalmic Genetics and Visual Function Branch.

Place: National Eye Institute, National Institutes of Health, Building 31, Room 6A22, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David M. Schneeweis, Ph.D., Acting Scientific Director, National Eye Institute, National Institutes of Health, Building 31, Room 6A22, Bethesda, MD 20892, 301–451–6763, *David.schneeweis@nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nei.nih.gov/about/advisory-committees,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: January 18, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01229 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: February 24–25, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sushmita Purkayastha, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, *sushmita.purkayastha@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: January 18, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01232 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, TEP–1B:SBIR Contract Review, February 2, 2022, 10:00 a.m. to February 2, 2022, 4:30 p.m., National Cancer Institute at Shady Grove, Room 7W030, 9609 Medical Center Drive, Rockville, Maryland 20850, which was published in the **Federal Register** on December 08, 2021, FR Doc. 2021–26593, 86 FR 69660.

This notice is being amended to change the meeting date from February 2, 2022 to February 8, 2022. The meeting times and location will stay the same. The meeting is closed to public.

Dated: January 18, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01199 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Advancing technologies to improve delivery of pharmacological, gene editing, and other cargoes for HIV and SUD mechanistic or therapeutic research (R01—Clinical Trial Optional).

Date: February 22, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–5819, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 18, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01242 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: February 22–23, 2022.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Srikanth Ranganathan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7802, Bethesda, MD 20892, (301) 435–1787, *srikanth.ranganathan@nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: February 24–25, 2022.

Time: 9:00 a.m. to 9:00 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: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Genetics Study Section.

Date: February 24–25, 2022.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1256, *biesj@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.
Date: February 24–25, 2022.
Time: 9:30 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.
Date: February 24–25, 2022.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207, MSC 7812, Bethesda, MD 20892, (301) 435–1238, *hodged@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 18, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01243 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Emerging Science and Technology in Transplantation Research (U01 Clinical Trial Not Allowed).
Date: February 16–17, 2022.
Time: 10:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20892 (Virtual Meeting).
Contact Person: Vanitha S. Raman, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20852, 301–761–7949, *vanitha.raman@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 18, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01240 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Clinical Studies.
Date: February 23, 2022.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Yun Mei, MD Scientific Review Officer, Scientific Review Branch, Natl Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite #670, Bethesda, MD 20892, (301) 827–4639, *yun.mei@nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 18, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–01201 Filed 1–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2022–0001]

Notice Seeking Public Comments on Methods To Prevent the Importation of Goods Mined, Produced, or Manufactured With Forced Labor in the People's Republic of China, Especially in the Xinjiang Uyghur Autonomous Region, Into the United States

AGENCY: Department of Homeland Security.

ACTION: Request for public comments.

SUMMARY: The U.S. Department of Homeland Security, on behalf of the Forced Labor Enforcement Task Force (FLETF), is seeking comments from the public, as required by the Uyghur Forced Labor Prevention Act, on how best to ensure that goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China are not imported into the United States. Such goods, wares, articles and merchandise include those mined, produced, or manufactured wholly or in part with forced labor by Uyghurs, Kazakhs, Kyrgyz, Tibetans, and members of other persecuted groups in the People's Republic of China, and especially in the Xinjiang Uyghur Autonomous Region. After receiving comments, the FLETF will conduct a public hearing and develop a strategy for supporting enforcement of section 307 of the Tariff Act of 1930, as amended.

DATES: Comments must be received on or before March 10, 2022 at 11:59 p.m. EST.

ADDRESSES: You may submit comments on this notice, identified by Docket No. DHS–2022–0001, through the Federal e-Rulemaking Portal at *https://www.regulations.gov*. Follow the website instructions for submitting comments.

Comments submitted in a manner other than those discussed in this Notice will not be considered by the Forced Labor Enforcement Task Force (FLETF). Please note that the FLETF cannot accept any comments that are hand-delivered or couriered. In addition, the FLETF cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. The FLETF is also not accepting mailed comments at this time. If you cannot submit your comment by using *https://www.regulations.gov,* please contact DHS Trade Policy at *FLETF.PUBLIC.COMMENTS@hq.dhs.gov* or 202–938–6365 for alternate instructions.

For additional instructions regarding submitting comments, see section I of this notice, ''Submission Instructions for Public Comments.''

FOR FURTHER INFORMATION CONTACT: Cynthia Echeverria, Acting Director of Trade Policy, U.S. Department of Homeland Security at 202–938–6365 or at *FLETF.PUBLIC.COMMENTS@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Submission Instructions for Public Comments

The FLETF invites all interested parties to provide written data, views, and comments on all aspects of this notice.

Instructions: If you submit a comment, you must include the task force name (the Forced Labor Enforcement Task Force) and DHS Docket No. DHS–2022–001. All comments or materials submitted in the manner described above will be posted, without change, to the Federal eRulemaking portal at *https://www.regulations.gov* and will include any personal information you provide. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission to the FLETF. DHS may withhold from public view information provided in comments that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Notice available at *https://www.regulations.gov/privacy-notice.*

Confidential Business Information Submissions: To submit a public comment that includes confidential business information, you must follow these instructions. If you do not follow these instructions, your comment may be posted without change to *https://www.regulations.gov.* For purposes of this notice, confidential business information is protected information which includes business confidential information, trade secrets, or commercial or financial information that is confidential or privileged; information that, if disclosed, would invade another individual's personal privacy; and other Freedom of Information Act (FOIA) exemption-qualifying information.

To submit any confidential business information to the FLETF, please submit your comment, with the confidential business information included, by email to *FLETF.PUBLIC.COMMENTS@hq.dhs.gov.* Please include a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL BUSINESS INFORMATION.'' Please clearly identify the portions of the emailed comment which constitute protected information. The FLETF will review the claimed confidential business information in its consideration of comments.

If you submit a confidential business information submission by email, please also submit a public version of the comment with identified confidential information removed. The FLETF will place the public version of the comment in the docket at *https://www.regulations.gov.* Public comments with confidential information submitted only by email, and not in conjunction with a public submission via *https://www.regulations.gov* may not be reviewed by the FLETF.

Docket: For access to the docket to view comments, go to *https://www.regulations.gov/and* search for DHS Docket No. DHS–2022–0001. You may also sign up for email alerts on the online docket to be notified when comments are posted.

II. Background

A. The Forced Labor Enforcement Task Force

Pursuant to section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307), ''[a]ll goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited.'' Under this section, the term ''forced labor'' includes ''all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily'' and includes forced or indentured child labor.

Section 741 of the United States-Mexico-Canada Agreement Implementation Act established the FLETF to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307). *See* 19 U.S.C. 4681. Pursuant to DHS Delegation Order No. 23034, the DHS Under Secretary for Strategy, Policy, and Plans serves as Chair of the FLETF, an interagency task force that includes the Department of Homeland Security, the Office of the U.S. Trade Representative, and the Departments of Labor, State, Justice, the Treasury and Commerce.[1] *See* 19 U.S.C. 4681; Executive Order 13923 (May 15, 2020). The Chair may invite other federal departments or agencies to participate as members or observers. *See* Executive Order 13923 (May 15, 2020).

The FLETF must meet quarterly to discuss active Withhold Release Orders, ongoing investigations, petitions received, enforcement priorities, and other relevant issues with respect to enforcing the prohibition under section 307. *See* 19 U.S.C. 4681(b). The FLETF must also submit biannual reports to appropriate congressional committees. *See* 19 U.S.C. 4683. These reports must include DHS enforcement priorities for and activities taken pursuant to section 307; the number of times merchandise was denied entry pursuant to the prohibition within the preceding 180 days and a description of the merchandise denied entry; an enforcement plan regarding goods described under recent Department of Labor (DOL) reports on international child labor and forced labor; and any other information the FLETF considers relevant with respect to monitoring and enforcing compliance under section 307 of the Tariff Act of 1930, as amended. *See* 19 U.S.C. 4683.

B. Uyghur Forced Labor Prevention Act: Preventing Goods Made With Forced Labor From the People's Republic of China From Being Imported Into the United States

The Uyghur Forced Labor Prevention Act (Pub. L. 117–78) (''UFLPA'') requires, among other things, that the FLETF, in consultation with the Secretary of Commerce and the Director of National Intelligence, develop a strategy for supporting enforcement of

[1] The U.S. Department of Homeland Security, as the FLETF Chair, has the authority to invite representatives from other executive departments and agencies, as appropriate. *See* Executive Order 13923 (May 15, 2020). The U.S. Department of Commerce is a member of the FLETF as invited by the Chair.

section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307), to prevent the importation into the United States of goods, wares, articles and merchandise mined, produced or manufactured wholly or in part by forced labor in the People's Republic of China, and especially in the Xinjiang Uyghur Autonomous Region. In developing and presenting this strategy, the UFLPA requires that the FLETF:

- Publish this notice in the **Federal Register** to solicit public comments, for not less than 45 days, on how best to ensure that goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China, including by Uyghurs, Kazakhs, Kyrgyz, Tibetans, and members of other persecuted groups in the People's Republic of China, and especially in the Xinjiang Uyghur Autonomous Region, are not imported into the United States. *See* Public Law 117–78, § 2(a);
- Not later than 45 days after the close of the comment period, conduct a public hearing inviting witnesses to testify with respect to the use of forced labor in the People's Republic of China and potential measures to prevent the importation into the United States of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China. *See* Public Law 117–78, 2(b); and
- Not later than 180 days after the enactment of the UFLPA, in consultation with the Secretary of Commerce and the Director of National Intelligence, submit to the appropriate congressional committees an initial report that includes the strategy for supporting enforcement of section 307 of the Tariff Act of 1930, as amended, to prevent the importation into the United States of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China. Updates to the strategy shall be submitted to the appropriate congressional committees on an annual basis. *See* Public Law 117–78, §§ 2(c), (e).

III. Request for Public Comments

A. Importance of Public Comments

Public comments will be vital to robust implementation of the UFLPA. Comments from all relevant stakeholders are encouraged to ensure that the FLETF accounts for a diverse and wide range of perspectives in developing a strategy to prevent the importation of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China.

Comments should be detailed and provide sufficient information to understand and assess concerns related to the risk of importing goods, wares, articles and merchandise mined, produced, or manufactured from specific regions, sectors, facilities, and entities in the People's Republic of China. Proposed approaches and measures to implement the UFLPA should be as detailed as practicable.

B. List of Questions for Commenters

To assist in the development of comments, members of the public may consider the following non-exhaustive list of questions. This list is not intended to restrict the issues that commenters may address.

1. What are the risks of importing goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China, including from the Xinjiang Uyghur Autonomous Region or made by Uyghurs, Kazakhs, Kyrgyz, Tibetans, or members of other persecuted groups in any other part of the People's Republic of China?
2. To the extent feasible, as part of the assessment of risks, what mechanisms, including the potential involvement in supply chains of entities that may use forced labor, could lead to the importation into the United States from the People's Republic of China, including through third countries, of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor?
3. What procedures can be implemented or improved to reduce the threats identified in Question 2?
4. What forms does the use of forced labor take in the People's Republic of China and the Xinjiang Uyghur Autonomous Region? For example, what ''pairing assistance'' and ''poverty alleviation'' or other government labor schemes exist in the People's Republic of China that include the forced labor of Uyghurs, Kazakhs, Kyrgyz, Tibetans, or members of other persecuted groups outside of the Xinjiang Uyghur Autonomous Region? What similar programs exist in which work or services are extracted from Uyghurs, Kazakhs, Kyrgyz, Tibetans, or members of other persecuted groups under the threat of penalty or for which they have not offered themselves voluntarily?
5. What goods are mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region or by entities that work with the government of the Xinjiang Uyghur Autonomous Region to recruit, transport, transfer, harbor, or receive forced labor?
6. In addition to cotton, tomatoes, and polysilicon, are there any other sectors which should be high-priority for enforcement?
7. What unique characteristics of such high-priority sector supply chains, including cotton, tomato, and/or the polysilicon supply chains, need to be considered in developing measures to prevent the importation of goods mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China?
8. How can the United States identify additional entities that export products that are mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region or by entities that work with the government of the Xinjiang Uyghur Autonomous Region to recruit, transport, transfer, harbor, or receive forced labor?
9. How can the United States most effectively enforce the UFLPA against entities whose goods, wares, articles, or merchandise are made wholly or in part with forced labor in the People's Republic of China and imported into the United States?
10. What efforts, initiatives, and tools and technologies should be adopted to ensure that U.S. Customs and Border Protection can accurately identify and trace goods entered at any U.S. ports in violation of section 307 of the Tariff Act of 1930, as amended?
11. What due diligence, effective supply chain tracing, and supply chain management measures can importers leverage to ensure that they do not import any goods mined, produced, or manufactured wholly or in part with forced labor from the People's Republic of China, especially from the Xinjiang Uyghur Autonomous Region?
12. What type, nature, and extent of evidence can companies provide to reasonably demonstrate that goods originating in the People's Republic of China were not mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region?
13. What tools could provide greater clarity to companies on how to ensure upcoming importations from the People's Republic of China were not mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region? To what extent is there a need for a common set of supply chain traceability and verification standards, through a widely endorsed protocol,

and what current government or private sector infrastructure exists to support such a protocol?

14. What type, nature, and extent of evidence can demonstrate that goods originating in the People's Republic of China, including goods detained or seized pursuant to section 307 of the Tariff Act of 1930, as amended, were not mined, produced, or manufactured wholly or in part with forced labor?

15. What measures can be taken to trace the origin of goods, offer greater supply chain transparency, and identify third-country supply chain routes for goods mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China?

16. How can the U.S. Government coordinate and collaborate on an ongoing basis with appropriate nongovernmental organizations and private sector entities to implement and update the strategy that the FLETF will produce pursuant to the UFLPA?

17. How can the U.S. Government improve coordination with nongovernmental organizations and the private sector to combat forced labor in supply chains, and how can these serve as a model to support implementation of the UFLPA?

18. Is there any additional information the FLETF should consider related to how best to implement the UFLPA, including other measures for ensuring that goods mined, produced, or manufactured wholly or in part with forced labor do not enter the United States?

Robert Silvers,

Under Secretary, Office of Strategy, Policy, and Plans.

[FR Doc. 2022–01444 Filed 1–20–22; 4:15 pm]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6284–N–01]

Implementation of the Fostering Stable Housing Opportunities Amendments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice implements and provides guidance on the provisions of the Fostering Stable Housing Opportunities (FSHO) amendments that are effective through the publication of this notice. This notice also identifies the provisions of FSHO that were effective upon enactment (*i.e.,* December 27, 2020) or otherwise already in effect and advises of actions that may or must be taken now to comply with the changes. Additionally, this notice identifies the provisions of FSHO that require further action from HUD to be implemented. Through this notice, HUD also seeks public comment on certain provisions of FSHO. However, HUD welcomes public comment on any of this notice's provisions.

DATES:

Effective date of amendments in Section III of this notice: April 25, 2022.

Comment due date: March 25, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this document. All communications must refer to the above docket number and title. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ryan E. Jones, Director, Housing Voucher Management and Operations Division, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4216, Washington, DC 20410, telephone number (202) 402–2677. (This is not a toll-free number.) HUD encourages submission of questions about this document be sent to: *FYI@hud.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Fostering Stable Housing Opportunities (FSHO) amendments, enacted as section 103 of division Q of the Consolidated Appropriations Act, 2021 on December 27, 2020 (Pub. L. 116–260), made changes to the assistance provided to eligible youth pursuant to the Family Unification Program (FUP) authorized under Section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)). FSHO provides an extension of the assistance provided to eligible youth for up to 24 months beyond the 36-month time limit of assistance if the youth is participating in a Family Self-Sufficiency (FSS) program under section 23 of the U.S. Housing Act of 1937 and for youth who are unable to enroll in an FSS program who engaged in education, workforce development, or employment activities for at least 9 months of the 12-month period preceding the extension. FSHO also provides an extension of assistance for up to 24 months beyond the 36-month time limit of assistance for eligible youth who meet one of three statutory exceptions.

FUP provides Housing Choice Vouchers (HCVs) to two different populations: (1) Families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or in the delay of the discharge of the child or children to the family from out-of-home care (''FUP families''), and (2) eligible youth who are at least 18 years of age and not more than 24 years of age who have left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and are homeless or at risk of becoming homeless at age 16 or older (''FUP youth'').

In 2019, HUD established the Foster Youth to Independence (FYI) initiative. Through Notice PIH 2019–20, HUD made available Tenant Protection Vouchers (TPVs) targeted to youth eligible under FUP, subject to availability. These vouchers are referred

to as FYI TPVs. The assistance was made available under the Consolidated Appropriations Act, 2019, (Pub. L. 116–6), enacted on February 15, 2019, that allowed TPV appropriated funds to be used for FUP. The notice explained the eligibility and application requirements for FYI TPV funding and described how applications will be processed. HUD made FYI TPVs available under the notice through the end of Fiscal Year (FY) 2020.

Following the rollout of FYI, Congress provided funding targeted for eligible youth under section 8(x) of the U.S. Housing Act of 1937 in the two most recent appropriations Acts—the Consolidated Appropriations Act, 2021, (Pub. L. 116–260), enacted on December 27, 2020, and the Further Consolidated Appropriations Act, 2020, (Pub. L. 116–94), enacted on December 20, 2019 (''the Acts''). While the Acts allowed that a portion of the appropriated amounts be made available without competition, the Acts also required that a minimum amount be made available competitively. On October 6, 2020, HUD issued Notice PIH 2020–28,[1] making available up to $10 million dollars for youth under FUP to be available on a rolling basis without competition. Subsequently, HUD issued the Foster Youth to Independence Competitive Notice of Funding Availability (FR–6400–N–41) making available $20 million dollars to assist youth under FUP.[2] On September 3, 2021, HUD issued Notice PIH 2021–26, making available an additional $10 million for youth under FUP on a rolling basis without competition. HUD refers to vouchers that are funded from these appropriated amounts as FYI vouchers, regardless of whether they were awarded competitively or noncompetitively.

The assistance made available under FYI, including FYI vouchers and FYI TPVs, are collectively referred to in this notice as ''FYI.'' In this notice, HUD calls out FYI TPVs only where the operating requirements are different from those for the newer FYI vouchers and such program requirement distinctions impact the implementation of FSHO.

By statute, there is no time limitation on FUP assistance when used to assist FUP-eligible families. However, FUP assistance used to assist FUP-eligible youth (FUPY), including FYI vouchers, collectively referred to hereafter as ''FUPY/FYI'' assistance, is subject to a 36-month time limit.

Public housing agencies (PHAs) administer FUP (including FUPY/FYI) in partnership with Public Child Welfare Agencies (PCWAs), who are responsible for referring families and youth to the PHA for a determination of eligibility for FUP rental assistance. Once the PCWA makes the referral, the PHA places the FUP applicant on its waiting list,[3] determines whether the family or youth meets HCV program eligibility requirements, and conducts all other processes relating to voucher issuance and administration. The PCWA is responsible for providing or leveraging follow-up supportive services, such as educational counseling and job preparation, for the period defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which the funding was made available.

The FSHO amendments made changes to the FUP authorized under section 8(x) of the U.S. Housing Act of 1937 to provide eligible youth with an extension of FUPY/FYI voucher assistance for up to 24 months beyond the 36-month time limit of assistance if they are participating in an FSS program under section 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1437u). In cases where a PHA is not carrying out an FSS program or is carrying out an FSS program in which the youth has been unable to enroll, FSHO provides the youth with an extension of FUPY/FYI voucher assistance for up to 24 months beyond the 36-month time limit of assistance if they engaged in education, workforce development, or employment activities for at least 9 months of the 12-month period preceding the extension. FSHO also provides an extension of FUPY/FYI voucher assistance for up to 24 months beyond the 36-month time limit of assistance for youth who are responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person; regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; or incapable of complying with the requirement to participate in an FSS program or engage in education, workforce development, or employment activities, as applicable, due to a documented medical condition.

This notice implements and provides guidance on the provisions of FSHO that are effective as of this notice's effective date (see Section III). This notice also identifies the provisions of FSHO that were effective upon enactment (*i.e.,* December 27, 2020) or otherwise already in effect and advises of actions that may or must be taken now to comply with the changes (see Section IV). Additionally, this notice identifies the provisions of FSHO that require further action from HUD to be implemented (see Section V).

Through this notice, HUD also seeks public comment on certain provisions of FSHO. Specifically, HUD seeks public comment on the provisions of FSHO related to participation in an FSS program and engagement in education, workforce development, and employment activities and has included specific questions for public comment in each of these sections. While this notice implements these provisions, HUD is seeking public comment in order to determine whether future changes are necessary. HUD also welcomes public comment on any of the other provisions of this notice. All comments must be submitted using the two methods detailed above.

II. Applicability (Section 103(d) of FSHO)

Section 103(d) of FSHO made the provisions of FSHO applicable only to FUPY/FYI vouchers that were not in use on behalf of an assisted family as of the date of the enactment of FSHO (*i.e.,* December 27, 2020). For FUPY/FYI tenant-based vouchers, the provisions of FSHO apply to eligible youth who first leased or leases a unit where the effective date of the HAP contract execution is after December 27, 2020. For FUPY/FYI project-based vouchers (PBVs), the provisions of FSHO apply to eligible youth who first entered or enters into a lease agreement for their PBV unit after December 27, 2020.[4] [5] [6]

[1] *https://www.hud.gov/sites/dfiles/PIH/documents/pih2020-28.pdf.*

[2] *https://www.hud.gov/sites/dfiles/SPM/documents/Foa_Content_of_FR-6400-N-41.pdf.*

[3] FYI TPVs do not require the use of a waiting list since the FYI TPV is awarded to the PHA for use by a specific person and is a special (non-waiting list) admission.

[4] Except for the provisions related to the PBV percentage limitation and income-mixing requirement, which are tied to the effective date of the HAP contract. These provisions are discussed in section IV(D) of this document.

[5] While PHAs may project-base FUPY/FYI vouchers (except FYI TPVs), PHAs are reminded that sponsor-based housing is not permitted under the PBV program (unless the PHA is a Moving to Work (MTW) agency, and it has received HUD approval to create a sponsor-based housing program through its Annual MTW Plan or MTW Supplement to the PHA Plan). Under the sponsor-based housing model, PHAs provide housing funds directly to sponsors (*i.e.,* nonprofits and social service providers) through a competitive process and the providers use the funds to secure private market rentals, typically through master lease contracts, that are then subleased to program participants. Certain administrative responsibilities (*e.g.,* eligibility determinations, wait list management) are delegated to the qualified sponsor and the PHA performs a quality control audit.

Continued

The provisions of FSHO apply to FUPY/FYI vouchers regardless of whether the PHA was awarded the voucher allocation before or after the enactment of FSHO as long as the youth first leased or leases a unit after the date of enactment of FSHO (*i.e.,* December 27, 2020).

III. Provisions of FSHO Implemented Through This Notice

A. Requirements To Extend Assistance for Youth Aging Out of Foster Care (Section 103(b)(1) of FSHO)

i. Extension of Assistance

Section 103(b)(1) of FSHO amended section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)) to add a new paragraph (5), subparagraph (A), to provide an extension of FUPY/FYI assistance for youth who are participating in a Family Self-Sufficiency (FSS) program under section 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1437u) and for youth who are unable to enroll in an FSS program but who engaged in education, workforce development, or employment activities for at least 9 months of the 12-month period preceding the extension. Section 103(b)(1) of FSHO also provides youth with an extension of FUPY/FYI assistance if they meet one of three statutory exceptions. These requirements for the extension of FUPY/FYI assistance are described below.

PHAs must inform FUPY/FYI youth of the provisions of FSHO that allow for an extension of FUPY/FYI assistance and the requirements that they must meet to receive such an extension during the family briefing (24 CFR 982.301(a)). PHAs must also notify FUPY/FYI youth who were issued a voucher prior to the publication of this notice and first leased or leases a unit after 12/27/2020, to inform them of the availability of this extension of assistance and the requirements that they must meet to receive such an extension. PHAs should note that FSHO does not restart or otherwise impact the initial 36-month time limit of assistance for FUPY/FYI vouchers but does make FUPY/FYI youth who first leased or leases a unit after 12/27/2020 eligible for an extension of assistance of up to 24 months.

Through the publication of this notice, HUD is not establishing terms or conditions for meeting these requirements beyond those contained in the statute. HUD is providing PHAs with flexibility in applying these requirements and encourages PHAs to consider how they can provide extensions of FUPY/FYI assistance to the broadest population possible consistent with the statutory requirements. In accordance with 24 CFR 982.54(a), PHAs must update their Administrative Plans to include written policies regarding how they will implement the following provisions of FSHO. HUD encourages PHAs to consult with their partnering PCWAs and other groups that work with foster youth when formulating their policies for implementing the requirements below.

As one of the goals of FSHO is to help FUPY/FYI youth advance their education, improve their career and employment prospects, and build towards financial security, HUD encourages PHAs that do not currently administer an FSS program to start one by creating an FSS Action Plan pursuant to 24 CFR 984.201 and having it approved by their local HUD Field Office. The creation of an FSS program would allow FUPY/FYI youth who enroll in the FSS program to accrue funds in an escrow account, in accordance with 24 CFR 984.305. Youth may use these funds to invest further in their education, to build financial security, or to help achieve other life goals.

(a) Extension of Assistance for Youth Participating in a Family Self-Sufficiency Program

An eligible youth who is participating in the Family Self-Sufficiency (FSS) program authorized under section 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1437u) is entitled to receive FUPY/FYI assistance for up to an additional 24 months beyond the 36-month time limit of assistance as long as the youth is in compliance with the applicable terms and conditions of the FSS program set forth in section 23 of the U.S. Housing Act and the FSS program regulations at 24 CFR part 984.

Families cannot be required to participate in the FSS program as a condition of receipt of assistance under the HCV program, including FUPY/FYI assistance. However, only FUPY/FYI youth that sign an FSS Contract of Participation and comply with the requirements of the FSS program are entitled to receive an extension of the time limit for voucher assistance under this statutory provision. A FUPY/FYI youth must participate in the FSS program if it is available to them in order to receive the extension of the time limit for voucher assistance unless the youth meets one of the statutory exceptions described in paragraph (c) below.

A PHA that carries out an FSS program must inform the FUPY/FYI youth of the availability of the FSS program at the time the voucher is issued and offer them an FSS slot, if available, or offer to place them on the FSS waiting list. The PHA must also notify FUPY/FYI youth who were issued a voucher prior to the publication of this notice and first leased or leases a unit after 12/27/2020, and offer them an FSS slot, if available, or offer to place them on the FSS waiting list.

HUD has determined that if a PHA that carries out an FSS program is unable to offer a FUPY/FYI youth an FSS slot during their first 36 months of receiving FUPY/FYI assistance, the youth is considered to have been ''unable to enroll'' in the program and may have their voucher extended by meeting the education, workforce development, or employment requirements in paragraph (b) below. In other words, a FUPY/FYI youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described in paragraph (c) below). If an FSS slot becomes available between the 36-month mark and the 48-month mark, the PHA must offer the slot to a FUPY/FYI youth who had their voucher extended based on meeting the education, workforce development, or employment requirement or one of the statutory exceptions (even if the youth previously declined an FSS slot because they met one of the statutory exceptions). The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their FUPY/FYI voucher. If the FUPY/FYI youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the FUPY/FYI voucher. The PHA may, but is not required to, offer a FUPY/FYI youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension under FSHO.

HUD is establishing this 36-month cut-off because it recognizes that it may not always be feasible or in the best

[6] Note that PHAs are prohibited from project-basing FYI TPVs since FYI TPVs ''sunset'' (*i.e.,* may not be reissued) when a youth leaves the program.

interest of the youth to enroll in an FSS program after the 36-month mark because of the limited time period of FUPY/FYI assistance. At that point, the FUPY/FYI youth will already be engaging in education, workforce development, or employment activities described in paragraph (b) below (unless they meet one of the statutory exceptions described in paragraph (c) below), and it may not be feasible to incorporate these activities into an FSS Contract of Participation for the remaining time period of the FUPY/FYI voucher. Therefore, a FUPY/FYI youth who met the alternative requirement described in paragraph (b) below or one of the statutory exceptions described in paragraph (c) below at the 36-month mark and received an extension of assistance on that basis may decline an FSS slot that is offered between the 36-month mark and the 48-month mark and meet the alternative requirements described in paragraph (b) below or one of the statutory exceptions descrbed in paragraph (c) below in order to receive an extension of assistance at the 48-month mark.

A PHA may give a selection preference for up to 50 percent of their FSS program slots to families with a member already enrolled in, or on the waiting list for, an FSS-related service program (24 CFR 984.203). If a PHA chooses to establish a selection preference in its FSS program, the PHA may, but is not required to, create a selection preference for FUPY/FYI youth to help ensure that they are able to enroll in the program. This is allowed under 24 CFR 984.203 because the services provided through the PCWA or other parties as required by the FUPY/FYI programs are considered an ''FSS related service program.'' FUPY/FYI youth participating in the services or who are on the waiting list for the services may be considered eligible for the preference.

For FUPY/FYI youth who enroll in the FSS program, the PHA must comply with the regulations concerning the term of the FSS Contract of Participation at 24 CFR 984.303(c) and any extensions of that term at 24 CFR 984.303(d). However, since it will be known that the FUPY/FYI participant's voucher will only be available for a specific period of time (not to exceed 60 months, total), the PHA's FSS Program Coordinator must work with the FUPY/FYI youth to establish Contract of Participation goals and an ITSP that can be accomplished within the time period left on the FUPY/FYI voucher. For example, a FUPY/FYI youth who enrolls in FSS at the beginning of their first year of receiving FUPY/FYI assistance would have five years in the FSS program before the expiration of their FUPY/FYI assistance while a youth that enrolls in FSS at the beginning of their third year of receiving FUPY/FYI assistance would have 3 years in the FSS program before the expiration of their FUPY/FYI assistance. The PHA should also ensure that their FSS Action Plan reflects policies that allow for goals to be changed or added to the Contract of Participation in order to allow the youth to continue in the FSS program through the full Contract of Participation period in the case that the FUPY/FYI youth is later issued a regular voucher or if there is another type of change in rental assistance which allows for the youth to continue in FSS after the FUPY/FYI assistance has expired.

If the PHA does not have an FSS program or if the FUPY/FYI youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUPY/FYI assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described in paragraph (b) below so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUPY/FYI assistance. However, if the FUPY/FYI youth is later offered an FSS slot prior to the 36-month mark, the youth will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month and 48-month time periods (unless they meet one of the statutory exceptions described in paragraph (c) below). If the FUPY/FYI youth is offered an FSS slot prior to the 36-month mark, the youth will not be considered to have been ''unable to enroll'' in the FSS program, and, as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described in paragraph (b) below.

At the 36-month and 48-month reexaminations, the PHA must extend the FUPY/FYI voucher assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program. In any case, the FUPY/FYI youth cannot receive more than a total of 60 months of FUPY/FYI voucher assistance even if the FSS Contract of Participation time period extends beyond the FUPY/FYI voucher 60-month mark.

Question for Comment

1. In order to receive an extension of FUPY/FYI assistance, should the cut-off for requiring a youth to enroll in the FSS program be the 36-month mark or is a different cut-off more appropriate based on the requirements of the FSS program?

(b) Extension of Assistance for Youth Engaging in Education, Workforce Development, or Employment Activities

If a PHA does not carry out an FSS program under section 23 the U.S. Housing Act of 1937 (42 U.S.C. 1437u) or the FUPY/FYI youth has been unable to enroll in the program during the first 36 months of receiving FUPY/FYI assistance, the FUPY/FYI youth is entitled to receive an extension of FUPY/FYI assistance for up to two successive 12-month periods beyond the 36-month time limit of assistance provided that the youth engaged in at least one of the education, workforce development, or employment activities below for not less than 9 months of the 12-month period preceding each extension.

In order to meet the 9-months out of the preceding 12-months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described below or a combination of these activities. For example, a youth may have engaged in obtaining a recognized postsecondary credential at the beginning of the 12-month period, but then the youth obtained the credential and became employed later in the 12-month period. The youth may combine the time that they were engaged in obtaining a recognized postsecondary credential and the time that they were employed in order to meet the 9-months out of 12-months requirement.

HUD notes that FSHO does not establish a minimum number of classes or credits that a youth must be enrolled in or a minimum number of hours that a youth must work in order to receive an extension of FUPY/FYI assistance under this provision. Conversely, FSHO does not prohibit a PHA from establishing such minimum requirements. Therefore, a PHA may, but is not required, to establish a minimum number of classes or credits that a youth must be enrolled in or a minimum number of hours that a youth must work in order to receive an extension of FUPY/FYI assistance under this provision. However, HUD strongly encourages PHAs to establish policies that provide extensions of FUPY/FYI assistance for youth that were engaged in such activities on a part-time basis as long as they meet the requirement to engage in such activities for not less than 9 months of the 12-month period preceding each extension. If a PHA

chooses to establish minimum requirements, HUD encourages the PHA to establish policies that would allow them to make exceptions to such requirements for circumstances beyond the youth's control.

For example, a PHA may establish a requirement that a youth must be enrolled in education activities on at least a halftime basis but may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled. Similarly, a PHA may establish a requirement that a youth must work a minimum number of hours per week but may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a family emergency. A PHA's policies implementing its education, workforce development, and employment requirements must be included in its Administrative Plan, in accordance with the procedures set forth in 24 CFR 903.21.

Education Requirements

• The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

A PHA may use the definitions of ''recognized postsecondary credential'' and ''secondary school diploma or its recognized equivalent'' under the Workforce Innovation and Opportunity Act (WIOA).

WIOA defines a ''recognized postsecondary credential'' as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a ''recognized postsecondary credential'' include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1).

For the purpose of WIOA, the U.S. Department of Labor defines a ''secondary school diploma or its recognized equivalent'' as a secondary school diploma (or alternate diploma) that is recognized by a State and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a ''secondary school diploma or its recognized equivalent'' include, but are not limited to, obtaining certification of attaining passing scores on a State-recognized high school equivalency test, earning a secondary school diploma or State-recognized equivalent, or obtaining certification of passing a State-recognized competency-based assessment.

• The youth was enrolled in an ''institution of higher education,'' as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a ''proprietary institution of higher education'' or a ''postsecondary vocational institution'' under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

Workforce Development Requirements

• The youth was participating in a career pathway, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

Employment Requirements

• The youth was employed.

Questions for Comment

2. Should HUD establish a minimum number of classes or credits that a youth must be enrolled in or a minimum number of hours that a youth must work in order to receive an extension of FUPY/FYI assistance under this provision?

3. Should HUD establish a maximum number of classes or credits or a maximum number of work hours that a PHA may require in order for a youth to receive an extension of FUPY/FYI assistance under this provision?

(c) Extension of Assistance Exceptions

A FUPY/FYI youth will be entitled to receive an extension of their FUPY/FYI assistance for up to 24 months beyond the 36-month time limit of assistance if they certify that they meet one of the exceptions below.

• The FUPY/FYI youth is a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person.

HUD is not defining the term ''incapacitated person'' but is providing PHAs with flexibility in applying this requirement. PHAs may choose to apply the definition of ''incapacitated person'' that has been established under state or local law. HUD encourages PHAs to apply this exception in a manner that provides extensions of FUPY/FYI assistance to the broadest population possible consistent with the statutory requirements.

FSHO does not require that the child or incapacitated person reside in the household in order for the FUPY/FYI youth to certify that they meet this exception. For example, a FUPY/FYI youth may submit this certification on the basis that they are responsible for the care of a dependent child under the age of 6 even if the child resides in the household only part of the time due to a shared custody arrangement. Similarly, a FUPY/FYI youth may submit this certification on the basis that they are responsible for the care of an incapacitated person, such as an elderly relative, even if the incapacitated person does not reside in the household.

• The FUPY/FYI youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

• The FUPY/FYI youth is a person who is incapable of complying with the requirement to participate in a Family Self-Sufficiency (FSS) program as described in paragraph (a) above or engage in education, workforce development, or employment activities as described in paragraph (b) above, as applicable, due to a documented medical condition.

HUD is not defining the types of medical conditions that may meet this requirement but is providing PHAs with flexibility in applying this requirement. HUD encourages PHAs to apply this exception in a manner that provides extensions of FUPY/FYI assistance to the broadest population possible consistent with the statutory requirements.

A FUPY/FYI youth that meets one of these exceptions must still be offered an opportunity to enroll in FSS (if it is available to them) and receive any supportive services available to FUPY/FYI youth, including those described in section III.B. of this document. A FUPY/FYI youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities even if they meet one of these statutory exceptions.

ii. Verification of Compliance

In order to extend the FUPY/FYI assistance for an eligible youth beyond the 36-month time period, the PHA must determine that the youth meets one of the statutory conditions described in paragraphs III(A)(i)(a), (b), or (c) above. Section 103(b)(1) of FSHO

requires that the PHA verify that the FUPY/FYI youth meets one of these statutory conditions on an annual basis in conjunction with reviews for determining income eligibility for the HCV program (24 CFR 982.516). In order to provide an extension of assistance, the PHA would need to verify compliance with these requirements at the end of the 36-month time period and the 48-month time period of FUPY/FYI assistance. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

HUD notes that since FUPY/FYI vouchers are limited to 36 months, a PHA will only need to conduct an annual reexamination of the FUPY/FYI youth at the end of the 36-month time period and the 48-month time period if the youth meets one of the statutory conditions that allow for the extension of FUPY/FYI assistance. Therefore, the PHA may wish to time its verification of compliance process in advance of the annual reexamination process. The PHA should ensure that it provides sufficient time for the FUPY/FYI youth to demonstrate that they meet one of these statutory conditions and for the PHA to conduct an annual reexamination prior to the expiration of the FUPY/FYI assistance.

Since the PHA only needs to verify compliance with the statutory conditions described in paragraphs III(A)(i)(a), (b), or (c) above on an annual basis (*i.e.,* at the end of the 36-month time period and the 48-month time period), the failure of a FUPY/FYI youth to meet one of these statutory conditions would only impact their ability to receive a subsequent extension of FUPY/FYI assistance; it would not serve as a basis for terminating the FUPY/FYI assistance prior to the annual reexamination. This does not affect the ability of the PHA to terminate FUPY/FYI assistance in accordance with 24 CFR 982.552.

Furthermore, a FUPY/FYI youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of these statutory conditions does not have to meet this same statutory condition when they reach the end of the 48-month time period. The FUPY/FYI youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

For example, a FUPY/FYI youth received an extension of voucher assistance at the end of the 36-month time period based on their certification that they were caring for a child under the age of 6. However, at the 48-month reexamination, the child is no longer under the age of 6. The FUPY/FYI youth must be given an opportunity to show that they meet a different condition in order to receive an extension of their assistance.

To verify compliance with the statutory conditions described in paragraphs III(A)(i)(a), (b), or (c) above, the PHA must conduct the following activities, as applicable, prior to the end of the 36-month time period and 48-month time period:

(a) Verification of Compliance for Youth Participating in a Family Self-Sufficiency Program

To verify compliance with the FSS requirement described in paragraph III(A)(i)(a) above, the PHA must examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUPY/FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

(b) Verification of Compliance for Youth Who Engage in Education, Workforce Development, or Employment Activities or Who Meet One of the Statutory Exceptions

To verify compliance with the education, workforce development, or employment requirement described in paragraph III(A)(i)(b) above or one of the statutory exceptions described in paragraph III(A)(i)(c) above, the PHA must provide the FUPY/FYI youth written notification informing them that they may receive an extension of their FUPY/FYI assistance if they meet one of the statutory conditions described in paragraphs III(A)(i)(b) and (c) above and providing instructions on how the youth may demonstrate that they meet one of these conditions.[7] This notification must be provided sufficiently in advance of the end of the 36-month time period or 48-month time period, as applicable, to allow the FUPY/FYI youth to demonstrate that they meet one of these statutory conditions and for the PHA to conduct an annual reexamination prior to the expiration of the FUPY/FYI assistance. When necessary, the PHA must provide this notification in a format accessible to FUPY/FYI youth with disabilities (see 24 CFR 8.6) and in a translated format for FUPY/FYI youth with limited English proficiency (see 24 CFR 1.4(b)(2)(i); 72 FR 2731).

In order for the FUPY/FYI youth to meet the education, workforce development, or employment requirement described in paragraph III(A)(i)(b) above, the youth must demonstrate to the PHA that they were engaged in at least one education, workforce development, or employment activity for at least 9 months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable. Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUPY/FYI youth may have not yet met the 9-month requirement but may be able to demonstrate that they will meet the 9-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUPY/FYI youth will still be considered to have met the requirements of paragraph III(A)(i)(b). In order for the FUPY/FYI youth to meet one of the statutory exceptions described in paragraph III(A)(i)(c) above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUPY/FYI youth must submit in order to demonstrate that they meet one of these exceptions.

If the PHA determines that the youth meets one of the statutory conditions described in paragraphs III(A)(i)(a), (b), or (c) above, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUPY/FYI youth the extension of voucher assistance in accordance with the applicable statutory provision.

If the FUPY/FYI youth does not meet any of the statutory conditions described in paragraphs III(A)(i)(a), (b), and (c) above, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUPY/FYI voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). Note that the number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUPY/FYI program. Prior to termination, the PHA must offer the FUPY/FYI youth the opportunity to request an informal hearing, in accordance with 24 CFR 982.555 and

[7] HUD encourages PHAs to ensure that any written notification that is sent to the FUPY/FYI youth only includes the statutory conditions that are available to them. Specifically, the PHA should be mindful that the education, workforce development, and employment requirement described in paragraph III(A)(i)(b) above is only available to FUPY/FYI youth who are unable to enroll in the FSS program.

the procedures set forth in its Administrative Plan.

B. Supportive Services (Section 103(b)(1) of FSHO)

Section 103(b)(1) of FSHO amended section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)) to add a new paragraph (5), subparagraph (B), that makes FUPY/FYI youth eligible for any supportive services (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 3102)) made available in connection with any housing assistance program of the PHA, by or through the PHA. Section 3 of WIOA defines supportive services as services, such as transportation, child care, dependent care, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under WIOA.[8] This subparagraph also requires the PHA to inform the youth of the existence of such programs or services and of their eligibility for such programs and services upon initial provision of FUPY/FYI assistance.

The FUP program already requires that the PHA's partnering PCWA(s) offer a range of supportive services to eligible youth for the period defined in the notice or NOFA/O for which the funding was made available. FSHO does not change these existing requirements but requires that the PHA make available to FUPY/FYI youth any supportive services that are made available in connection with any other housing assistance program of the PHA, by or through the PHA. However, this provision of FSHO does not supersede any eligibility requirements for the supportive services that are made available in connection with any other housing assistance program of the PHA, by or through the PHA.

At the time the FUPY/FYI voucher is issued to an eligible youth, the PHA must inform the youth of the FUPY/FYI supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. The PHA must provide this information as part of the family briefing pursuant to 24 CFR 982.301(a). However, participation in supportive services cannot be required as a condition of receiving FUPY/FYI assistance.

[8] Section 3 of WIOA (29 U.S.C. 3102) also includes ''housing'' in its definition of ''supportive services.'' However, housing would not be considered a supportive service under the FUPY/FYI program.

C. Applicability to Moving to Work Agencies (Section 103(b)(1) of FSHO)

Section 103(b)(1) of FSHO amended section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)) to add a new paragraph (5), subparagraph (C), to allow Moving to Work (MTW) agencies to establish alternative terms, conditions, or requirements for the extension of FUPY/FYI assistance. For example, an MTW agency may provide an extension of FUPY/FYI assistance for youth participating in a local MTW self-sufficiency program in lieu of participating in an FSS program under section 23 of the U.S. Housing Act. Note that an MTW agency may only waive or modify the terms, conditions, or requirements to receive an extension of FUPY/FYI assistance, not the length of the extension of assistance. An MTW agency also may not waive or modify the exceptions under which a youth who does not meet the requirement to participate in an FSS program as described in paragraph III(A)(i)(a) of this document or engage in education, workforce development, or employment activities as described in paragraph III(A)(i)(b) of this document, as applicable, may receive an extension of FUPY/FYI assistance.

Any alternative terms, conditions, and requirements for the extension of FUPY/FYI assistance must be included in the Annual MTW Plan (for initial agencies) or the MTW Supplement to the PHA Plan (for expansion agencies). If an MTW PHA's Annual MTW Plan or MTW Supplement to the Annual PHA Plan does not include alternative terms, then the policies set forth in this Notice will apply to the MTW PHA. Further, FUPY/FYI vouchers are not eligible for funding fungibility under the Standard MTW Agreement or MTW Amendment to the Annual Contributions Contract.

D. Termination of Vouchers Upon Turnover (Section 103(b)(1) of FSHO)

Section 103(b)(1) of FSHO amended section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)) to add a new paragraph (5), subparagraph (D), to prohibit a PHA from reissuing a FUPY/FYI voucher when assistance for the youth initially assisted is terminated, unless specifically authorized by the Secretary.

This provision of FSHO prohibiting the reissuance of vouchers upon turnover does not affect FUPY/FYI vouchers funded by an appropriations Act that specified such vouchers be reissued to eligible youth upon turnover. Currently, the appropriations Acts for FUPY/FYI require that vouchers be made available to eligible recipients upon turnover (except for FYI TPVs awarded under Notice PIH 2019–20, which cannot be reissued when the youth exits the HCV program). For FUPY/FYI vouchers (except FYI TPVs), PHAs are currently required to notify HUD if it determines that it no longer has an identified need for a FUPY/FYI voucher upon turnover, so HUD can recapture the assistance and reallocate it to a PHA with an identified need. If there are changes to this requirement in future FUPY/FYI appropriations Acts, HUD will provide guidance at that time.

IV. Provisions of FSHO Effective Upon Enactment or Otherwise Already in Effect

A. Definition of Family (Section 103(a) of FSHO)

Section 103(a) of FSHO amended the definition of ''family'' at section 3(b)(3)(A) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(A)) to clarify that a family may include families consisting of a single person who is a youth described in section 8(x)(2)(B) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)(2)(B)).

Implementation Action. This statutory change was effective as of the date of enactment of FSHO (*i.e.,* December 27, 2020). This document serves as notice to PHAs that the definition of family in the PHA's Administrative Plan must reflect this statutory change (24 CFR 982.54(d)(4)(i)). At a later date, HUD will undertake conforming rulemaking to revise its regulations to reflect this statutory change.

B. Allocation of Assistance for Youth Aging Out of Foster Care (Section 103(b)(1) of FSHO)

Section 103(b)(1) of FSHO amended section 8(x)(3) of the U.S. Housing Act of 1937 to require that the Secretary, subject only to the availability of funds, allocate FUPY/FYI assistance to any PHA that (1) administers FUPY/FYI assistance or seeks to administer such assistance, consistent with procedures established by the Secretary, (2) has requested FUPY/FYI assistance so that they may provide timely assistance to eligible youth, and (3) has submitted to the Secretary a statement describing how it will connect assisted youths with local community resources and self-sufficiency services, to the extent they are available, and obtain referrals from PCWAs regarding youths in foster care who become eligible for FUPY/FYI assistance.

Implementation Action. The Consolidated Appropriations Act, 2021, (Pub. L. 116–260) and the Further Consolidated Appropriations Act, 2020,

(Pub. L. 116–94) made funding available to provide HCV assistance on a non-competitive basis for eligible youth under section 8(x) of the U.S. Housing Act of 1937. HUD made this funding available through Notices PIH 2020–28 and PIH 2021–26. These notices set forth application requirements that are consistent with this provision of FSHO.

C. Reports (Section 103(b)(1) of FSHO)

Section 103(b)(1) of FSHO amended section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)) to add a new paragraph (5), subparagraph (E)(i)(I), to require that PHAs report the number of persons on whose behalf FUPY/FYI assistance was provided during the fiscal year.

Implementation Action. PHAs are already required to report this information in the Public Information Center (PIC). PHAs must use a special program code for FUPY/FYI voucher participants in line 2n of the Family Report (form HUD–50058) or line 2p of the MTW Family Report (form HUD–50058–MTW), as applicable. If the voucher is issued as part of FUP, the special program code is ''FUPY.'' If the voucher is issued as part of FYI, the special program code is ''FYI,'' except for FYI TPVs, whose special program code is ''FYITPV.''

D. Exceptions to Limitations for Project-Based Voucher (PBV) Assistance (Section 103(c) of FSHO)

Section 103(c) of FSHO amended the percentage limitation at section 8(o)(13)(B)(ii) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(B)(ii)) and the income-mixing requirement at section 8(o)(13)(D)(ii)(I) of the U.S. Housing Act (42 U.S.C. 1437f(o)(13)(D)(ii)(I)) for units that house eligible youth receiving FUPY/FYI assistance. Note that this section is not applicable to FYI TPVs that were awarded under Notice PIH 2019–20, since PHAs are prohibited from project-basing FYI TPVs.

While FUP vouchers (not including FYI vouchers) can be used for either families or youth, a PBV unit may only be covered by these amendments to the percentage limitation and income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. Therefore, the HAP contract must specify that the PBV unit is specifically made available to FUP youth in order for the unit to be covered. In order to make PBV units specifically available to FUP youth, the PHA must determine that such a limitation is consistent with the local housing needs of both eligible FUP populations (*i.e.,* families and youth) and maintain documentation to support this determination. The PHA must also amend its Administrative Plan to include the limitation of these FUP PBV units to eligible youth. Since FYI vouchers are already limited to youth, the PHA does not need to take these steps in order to project-base FYI vouchers under this new percentage limitation and income-mixing requirement authority.

(i) Section 103(c)(1), Percentage Limitation

Section 103(c)(1) of FSHO amended the percentage limitation at section 8(o)(13)(B)(ii) of the U.S. Housing Act of 1937 to make units that house eligible youth receiving FUPY/FYI assistance an eligible category of units where a PHA is permitted to project-base additional vouchers above the 20 percent PBV program limitation. Section 8(o)(13)(B)(ii) of the U.S. Housing Act of 1937, as amended by section 106(a)(2) of the Housing Opportunity Through Modernization Act of 2016, Public Law 114–201, 130 Stat. 782 (HOTMA), allows a PHA to project-base an additional 10 percent of its units above the 20 percent program limit, provided those additional units fall into one of the following categories: (1) The units are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302); (2) The units are specifically made available to house families that are comprised of or include a veteran; (3) The units provide supportive housing to persons with disabilities or to elderly persons; (4) The units are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates. Pursuant to section 103(c)(1) of FSHO, this list of categories now includes units that house eligible youth receiving FUPY/FYI assistance.

Implementation Action. The provision of HOTMA that amended section 8(o)(13)(B)(ii) of the U.S. Housing Act of 1937 to allow for a 10 percent increase in project-based vouchers for certain categories of units was implemented via a **Federal Register** notice, 82 FR 5458 (January 18, 2017) (''HOTMA January 18, 2017, Notice''), and the subsequent amendment, 82 FR 32461 (July 14, 2017) (''HOTMA July 14, 2017, Notice''). HUD subsequently issued guidance on HOTMA implementation in Notice PIH 2017–21. Under section II.C.2.B. of the HOTMA January 18, 2017, Notice, a PHA that wishes to add PBV units under the 10 percent exception authority must submit certain information to HUD.

This statutory change making units that house eligible youth receiving FUPY/FYI assistance eligible for the 10 percent increase in the program cap was effective as of the date of enactment of FSHO (*i.e.,* December 27, 2020) and applies to vouchers that were not in use on behalf of an assisted family as of December 27, 2020. A PHA that wishes to add PBV units that house eligible youth receiving FUPY/FYI assistance under the 10 percent exception authority must submit the information required under section II.C.2.B. of the HOTMA January 18, 2017, Notice to HUD. A PHA may amend a previous submission under section II.C.2.B. that is currently in process if it wants to include units that house eligible youth receiving FUPY/FYI assistance under the 10 percent exception authority.

A PHA need not meet the 20 percent program cap before it can designate eligible units for the 10 percent exception category. For example, if a PHA has project-based 10 percent of its units under the percentage limitation and wants to project-base 5 percent of its units under the 10 percent exception category, it may do so. This PHA would have 10 percent remaining under the percentage limitation and 5 percent remaining under the 10 percent exception authority. A PHA proposal that would result in the PHA exceeding either the 20 percent program cap or the 10 percent exception from the program cap will be rejected by the HUD field office. As long as a PHA has not exceeded the 30 percent limit, it may amend its proposal by moving units from one category to the other, provided that only eligible units are counted toward the 10 percent exception from the program cap.

PBV units that house eligible youth receiving FUPY/FYI assistance may only be covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority.

The PBV unit specifically made available to FUPY/FYI youth, as applicable, will apply under the 10 percent exception authority as long as

an eligible youth receiving FUPY/FYI assistance resides in the unit. Therefore, prior to project-basing a FUPY/FYI voucher under this 10 percent exception authority, the PHA must plan for how it will maintain compliance with this 10 percent exception authority once the FUPY/FYI assistance has expired for a particular youth who has leased the unit. In order for the unit to remain under the FUPY/FYI exception authority, the youth must vacate the unit once their FUPY/FYI assistance has expired and the owner must lease the unit to another FUPY/FYI youth. If the youth does not move from the unit upon the expiration of their FUPY/FYI assistance, at that time the PHA must take one of the following actions since the unit no longer qualifies for the FUPY/FYI exception authority:

- Remove the unit from the HAP contract. The PHA would remove the unit from the HAP contract if the youth remains in the unit without assistance or with non-FUPY/FYI tenant-based assistance. The unit may be added back to the contract per 24 CFR 983.207(b) [9] if the youth later moves from the unit;
- Amend the HAP contract to substitute the youth's current unit for another unit in the building if it is possible to do so in accordance with 24 CFR 983.207(a). Such a substitution will result in the other unit in the building being covered by the FUPY/FYI 10 percent exception authority. A PHA may, but is not required to, in conjunction with such substitution add the youth's current unit to the HAP contract if it is possible to do so in accordance with 24 CFR 983.207(b), as amended by HOTMA, including that such addition does not cause the PHA to exceed the program limitation or become non-compliant with the income-mixing requirement (as described in the following section). If the youth's current unit is not added to the HAP contract, the youth may remain in the unit without assistance or with non-FUPY/FYI tenant-based assistance; or
- Change the 10 percent exception authority category from FUPY/FYI to one of the other 10 percent exception categories if the FUPY/FYI youth, or the unit, happens to qualify for it, so long as the change is allowable under the income-mixing requirement (as described in the following section).

A PHA may only allow the youth to remain in the unit with non-FUPY/FYI HCV assistance (either tenant-based or project-based, as applicable) if the youth was selected from the applicable waiting list in accordance with the policies set forth in the PHA's Administrative Plan. A PHA may, but is not required to, create a preference applicable to the PHA's regular HCV and/or PBV waiting lists for persons whose FUPY/FYI assistance is expiring and will have a lack of adequate housing as a result of their termination from the program, or other similar category. However, as noted above, the unit will no longer qualify for the FUPY/FYI exception category if the youth remains in the unit with another form of HCV assistance after their FUPY/FYI assistance has expired.

At a later date, HUD will undertake conforming rulemaking to revise its regulations to reflect this statutory change.

(ii) Section 103(c)(2), Income-Mixing Requirement

Section 103(c)(2) of FSHO amended the income-mixing requirement (*i.e.,* the project cap) at section 8(o)(13)(D)(ii)(I) of the U.S. Housing Act of 1937 to except units that are exclusively made available to youth receiving FUPY/FYI assistance from the cap on the number of PBV units in a project. Section 8(o)(13)(D)(ii)(I) of the U.S. Housing Act, as amended by section 106(a)(3) of HOTMA, generally limits the number of PBV units in a project to the greater of 25 units or 25 percent of the units in the project. Under HOTMA, units that are in one of the following categories are excluded from the 25 percent or 25-unit project cap on PBV assistance: (1) Units exclusively serving elderly families (as such term is defined in 24 CFR 5.403); or (2) Units housing households eligible for supportive services available to all families receiving PBV assistance in the project. Pursuant to section 103(c)(2) of FSHO, this list of categories now includes units that are exclusively made available to eligible youth receiving FUPY/FYI assistance.

Implementation Action. The provision of HOTMA that amended section 8(o)(13)(D)(ii)(I) of the U.S. Housing Act of 1937 to except certain categories of units from the project cap was implemented via the HOTMA January 18, 2017, Notice and amended in the HOTMA July 14, 2017, Notice. HUD subsequently issued guidance on HOTMA implementation in Notice PIH 2017–21. Under section II.C.3.A. of the HOTMA January 18, 2017, Notice, owners under HAP contracts already in effect prior to the effective date of the HOTMA January 18, 2017, Notice (*i.e.,* April 18, 2017) are still obligated by the terms of those HAP contracts with respect to the requirements that apply to the number of excepted units in a multifamily project. The owner must continue to designate the same number of contract units and assist the same number of excepted families as provided under the HAP contract during the remaining term of the HAP contract unless the owner and the PHA mutually agree to change those requirements.

This statutory change excepting units that are exclusively made available to youth receiving FUPY/FYI assistance from the project cap was effective as of the date of enactment of FSHO (*i.e.,* December 27, 2020) and applies to vouchers that were not in use on behalf of an assisted family as of December 27, 2020. Therefore, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. Consistent with the effect on existing contracts in the implementation of the HOTMA provision on units exclusively made available to certain families, owners under HAP contracts already in effect on or prior to December 27, 2020, are still obligated by the terms of those HAP contracts with respect to the requirements that apply to the number of excepted units in a multifamily project. The owner must continue to designate the same number of contract units and assist the same number of excepted families as provided under the HAP contract during the remaining term of the HAP contract unless the owner and the PHA mutually agree to change those requirements. The PHA and owner may agree by mutual consent to change the terms of a HAP contract already in effect as it pertains to the exception category of units exclusively made available to youth receiving FUPY/FYI assistance (*i.e.,* a PHA and owner may agree to add excepted units exclusively made available to FUPY/FYI youth to an existing HAP contract or change the exception category of a current excepted unit to be a unit exclusively made available to FUPY/FYI youth). The PBV HAP contract may not be changed to include units exclusively made available to youth receiving FUPY/FYI assistance if the change would jeopardize an assisted family's eligibility for continued assistance at the project.

Excepted PBV units exclusively made available to FUPY/FYI youth, as applicable, qualify as excepted as long as an eligible youth receiving FUPY/FYI assistance resides in the unit. Therefore, prior to entering into a HAP contract that includes FUPY/FYI excepted units, the PHA must plan for how it will maintain compliance with the requirements for excepted units once the FUPY/FYI assistance has expired for a particular youth who has leased the

[9] As amended by HOTMA (*see* HOTMA January 18, 2017 Notice; Notice PIH 2017–21 Att. J).

unit. In order for the unit to remain under the FUPY/FYI excepted unit category, the youth must vacate the unit once their FUPY/FYI assistance has expired and the owner must lease the unit to another FUPY/FYI youth. If the youth does not move from the unit upon the expiration of their FUPY/FYI assistance, at that time the PHA must take one of the following actions in order to maintain compliance with the income-mixing requirement:

- Remove the unit from the HAP contract. The PHA would remove the unit from the HAP contract if the youth remains in the unit without assistance or with non-FUPY/FYI tenant-based assistance. The unit may be added back to the contract per 24 CFR 983.207(b) [10] if the youth later moves from the unit;
- Amend the HAP contract to substitute the youth's current unit for another unit in the building if it is possible to do so in accordance with 24 CFR 983.207(a). Such a substitution will result in the other unit in the building being covered by the FUPY/FYI excepted unit category. A PHA may, but is not required to, in conjunction with such substitution add the youth's current unit to the HAP contract if it is possible to do so in accordance with 24 CFR 983.207(b), as amended by HOTMA, including that such addition does not cause the PHA to exceed the program limitation or become non-compliant with the income-mixing requirement. If the youth's current unit is not added to the HAP contract, the youth may remain in the unit without assistance or with non-FUPY/FYI tenant-based assistance; or
- Amend the HAP contract to change the excepted unit category from FUPY/FYI to another excepted unit category (such as supportive services) if the FUPY/FYI youth, or the unit, happens to qualify for it, or change the unit to a non-excepted unit if doing so is allowable under the income-mixing requirement. Such a change in the form of PBV assistance used in the unit is permissible only if it does not cause the PHA to exceed the program limitation.

A PHA should be aware that it may only allow the youth to remain in the unit with non-FUPY/FYI HCV assistance (either tenant-based or project-based, as applicable) if the youth was selected from the applicable waiting list in accordance with the policies set forth in the PHA's Administrative Plan. A PHA may, but is not required to, create a preference applicable to the PHA's regular HCV and/or PBV waiting lists for persons whose FUPY/FYI assistance is expiring and will have a lack of adequate housing as a result of their termination from the program, or other similar category. However, as noted above, the unit will no longer qualify for the FUPY/FYI excepted unit category if the youth remains in the unit with another form of HCV assistance after their FUPY/FYI assistance has expired.

At a later date, HUD will undertake conforming rulemaking to revise its regulations to reflect this statutory change.

V. Provisions of FSHO That Require Future Action From HUD To Be Implemented

A. Reports (Section 103(b)(1) of FSHO)

Section 103(b)(1) of FSHO amended section 8(x) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)) to add a new paragraph (5), subparagraphs I(i)(II) and (III), to require that PHAs report the following information to HUD regarding FUPY/FYI assistance.

(i) The Number of Persons Who Applied for FUPY/FYI Assistance During the Fiscal Year Who Were Not Provided FUPY/FYI Assistance and the Reason Why the PHA Was Unable To Provide Such Assistance

PHAs are required to report the number of persons who applied for FUPY/FYI assistance during the fiscal year who were not provided FUPY/FYI assistance and the reason why the PHA was unable to provide such assistance. For the purpose of this reporting requirement, HUD interprets the number of persons who applied for assistance during the fiscal year to be the number of youth that a partnering PCWA determined to be eligible for FUPY/FYI assistance and referred to the PHA during the fiscal year. Therefore, the PHA must report the number of persons who were referred for FUPY/FYI assistance by a partnering PCWA during the fiscal year who were not provided FUPY/FYI assistance and the reason why the PHA was unable to provide such assistance. For example, a PHA may have been unable to provide FUPY/FYI assistance because it did not have any FUPY/FYI vouchers available or it determined that the person was not eligible for the HCV program.

Implementation Action. The requirement to report this information to HUD is not in effect until HUD completes the Paperwork Reduction Act requirements. Until such time, PHAs are not required to report this information to HUD. HUD notes that it would be beneficial for PHAs to maintain this information to facilitate future reporting to HUD.

(ii) How the PHA Communicated or Collaborated With PCWAs To Collect Such Data During the Fiscal Year

PHAs are required to report how they communicated or collaborated with PCWAs to collect the data described in paragraphs IV(C) and V(A)(i) of this document.

Implementation Action. The requirement to report this information to HUD is not in effect until HUD completes the Paperwork Reduction Act requirements. Until such time, PHAs are not required to report this information to HUD. HUD notes that it would be beneficial for PHAs to maintain this information to facilitate future reporting to HUD.

B. Coordination Between Public Housing Agencies and Public Child Welfare Agencies (Section 103(b)(2) of FSHO)

Section 103(b)(2) of FSHO amended section 8(x)(4) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(x)(4)), which requires HUD to issue guidance to improve coordination between PHAs and PCWAs in carrying out the FUP program. Specifically, section 103(b)(2) of FSHO requires the provision of guidance on establishing a point of contact at the PHA to receive appropriate referrals of eligible recipients from its partnering PCWA(s).

Implementation Action. HUD will provide guidance in this area as part of the guidance required by section 8(x)(4) of the U.S. Housing Act. HUD expects to issue this guidance in the near future.

C. Supplemental Fees for Administering Assistance for Youth Aging Out of Foster Care (Section 103(b)(3) of FSHO)

Section 103(b)(3) of FSHO amended section 8(q) of the U.S. Housing Act of 1937 (42 U.S.C 1437f(q)) by adding a new paragraph (5) to allow HUD to provide supplemental fees to PHAs for the cost of administering FUPY or FYI vouchers but only if the PHA waives any residency requirement that it has established pursuant to section 8(r)(1)(B)(i) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(r)(1)(B)(i)). Section 8(r)(1)(B)(i) allows PHAs to require that any family that does not live in its jurisdiction at the time the family applies for HCV assistance must lease and occupy a dwelling in the PHA's jurisdiction during the first 12-months of assistance.

A PHA's residency requirement applies to all HCVs. As a result, PHAs are prohibited from making changes to the residency requirement for FUPY and

[10] As amended by HOTMA (*see* HOTMA January 18, 2017 Notice; Notice PIH 2017–21 Att. J).

FYI only absent statutory authority as FSHO did not grant such authority.

Implementation Action: Should HUD receive funding to provide supplemental fees for FUPY or FYI vouchers under this section, HUD will issue a notice communicating the availability of funds, eligible activities and expenses, and instructions on how to apply for such funds.

VI. Environmental Impact

This notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dominique Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 2022–01285 Filed 1–21–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[21X.LLNMP02000.L14400000.ET0000; NMNM–142840]

Notice of Application for Withdrawal and a Public Meeting for Guadalupe Cave Resource Protection Area, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application for withdrawal.

SUMMARY: The Bureau of Land Management (BLM) has received an application from the United States Forest Service (USFS) for the Secretary of the Interior to withdraw 28,513.30 acres of National Forest System lands from location and entry under the United States mining laws, and from leasing under the mineral leasing laws, subject to valid existing rights, for a period of 20 years to protect the Guadalupe Cave Resource Protection Area located on the Guadalupe Ranger District of the Lincoln National Forest in New Mexico. Publication of this notice segregates the lands for two years from location and entry under the United States mining laws, and from leasing under the mineral leasing laws, subject to valid existing rights, and announces an opportunity for the public to comment on the withdrawal application. This notice also announces the date, time, and location of the public meeting. The lands will remain open to all other uses according to the laws applicable to National Forest System lands.

DATES: Comments and meeting requests must be received on or before April 25, 2022.

ADDRESSES: All comments should be sent to the BLM New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 87508, or email to *snaranjo@blm.gov.* The BLM will not consider comments received via telephone calls. The application and case file are available for public examination by interested persons by appointment at the BLM Public Room, 620 E Greene Street, Carlsbad, NM 88220 during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday except holidays. Please call Robert Gomez, Realty Supervisor, at (575) 234–5989 to review the application and case file at the BLM Public Room.

FOR FURTHER INFORMATION CONTACT: Sarah Naranjo, Realty Specialist, BLM New Mexico State Office, by email at *snaranjo@blm.gov* or by telephone at (505) 954–2200. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Naranjo. The FRS 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: The purpose of the withdrawal is to protect and preserve the Guadalupe Cave Resource Protection Area in the Lincoln National Forest in Eddy County, New Mexico, for a 20-year period. This area is part of the Capitan Limestone, reef, and shelf complex, of Permian age, and has a high likelihood of undiscovered caves; therefore, no suitable alternative site is available. The USFS filed an application on December 18, 2020, with the Secretary of the Interior, to withdraw the following described National Forest System lands:

New Mexico Principal Meridian

T. 25 S., R. 21 E.,
sec. 36, lot 4, S½SW¼, and SW¼SE¼,
T. 26 S., R. 21 E.
sec. 1;
sec. 2, E½;
sec. 10, SE¼SE¼;
sec. 11, E½ and SW¼;
secs. 12, 13, and 14;
sec. 15, E½, S½NW¼, and SW¼;
sec. 16, S½SE¼;
sec. 20, SE¼;
secs. 21 thru 28;
sec. 29, E½;
sec. 32, lots 1 and 2, and N½NE¼;
sec. 33, lots 1 thru 4, and N½N½;
sec. 34, lots 1 thru 4, and N½N½;
sec. 35, lots 1 thru 4, and N½N½;
sec. 36, lots 1 thru 4, and N½N½;
T. 25 S., R.22 E.,

(The land described in T. 25 S., R. 22 E. is unsurveyed, and descriptions were established by a 2002 Protraction Diagram)

PB 43;
sec. 14, S½;
sec. 15, S½ and NW¼;
PBs 44, 49, 50, 51, and 52;
secs. 22 and 23;
secs. 26 thru 29;
PBs 55 thru 63;
T. 26 S., R. 22 E.,
secs. 3 thru 10, and 15 thru 18.

The area described contains 28,513.30 acres in Eddy County, New Mexico.

All persons who wish to submit comments, suggestions, or objections, in connection with the requested withdrawal to the Lincoln National Forest, can do so until April 25, 2022 to the individual mentioned in the **ADDRESSES** section.

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 in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Notice is hereby given that a virtual (online) public meeting in connection with the application for withdrawal and segregation will be held. The USFS and the BLM will have a public meeting on February 23, 2022, at 5:30 p.m. (Mountain Time). A link to join the Teams virtual meeting will be available at *https://www.fs.usda.gov/lincoln.*

Submit your written comments to the State Director, BLM New Mexico State Office, at the address in the **ADDRESSES** section indicated above by April 25, 2022.

For a period until January 24, 2024, subject to valid existing rights, the lands in this Notice will be segregated from location and entry under the United States mining laws and leasing under the mineral leasing laws, unless the application is denied or canceled, or the withdrawal is approved prior to that date.

(Authority: 43 CFR 2310.3–1)

Melanie G. Barnes,

Acting State Director.

[FR Doc. 2022–01216 Filed 1–21–22; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Mobile Phones and Tablet Computers, All with Switchable Connectivity, and Products Containing Same, DN 3597*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Ericsson Inc. and Telefonaktiebolaget LM Ericsson on January 18, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile phones, and tablet computers, all with switchable connectivity, and products containing same. The complainant names as respondent: Apple, Inc. of Cupertino, CA. The complainant requests that the Commission issue a limited exclusion order, a cease and desist order, and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments. Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3597'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: January 19, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–01291 Filed 1–21–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Mobile Phones, Tablet Computers, Smart Watches, Smart Speakers, and Digital Media Players, and Products Containing Same, DN 3596;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Ericsson Inc. and Telefonaktiebolaget LM Ericsson on January 18, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile phones, tablet computers, smart watches, smart speakers, and digital media players, and products containing same. The complainant names as respondent: Apple, Inc. of Cupertino, CA. The complainant requests that the Commission issue a limited exclusion order, a cease and desist order, and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments. Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3596'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures[1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: January 19, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–01290 Filed 1–21–22; 8:45 am]

BILLING CODE 7020–02–P

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1292]

Institution of Investigation; Certain Replacement Automotive Lamps II

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 December 16, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Hyundai Motor Company of the Republic of Korea and Hyundai Motor America, Inc. of Fountain Valley, California. The Complaint was supplemented by letter on January 6, 2022. The complaint, as supplemented, 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 replacement automotive lamps by reason of infringement of U.S. Design Patent No. D617,478 (''the '478 patent''); U.S. Design Patent No. D618,835 (''the '8835 patent''); U.S. Design Patent No. D618,836 (''the '836 patent''); U.S. Design Patent No. D631,583 (''the '583 patent''); U.S. Design Patent No. D637,319 (''the '319 patent''); U.S. Design Patent No. D640,812 (''the '812 patent''); U.S. Design Patent No. D655,835 (''the '5835 patent''); U.S. Design Patent No. D664,690 (''the '690 patent''); U.S. Design Patent No. D709,217 (''the '217 patent''); U.S. Design Patent No. D736,436 (''the '436 patent''); U.S. Design Patent No. D738,003 (''the '003 patent''); U.S. Design Patent No. D739,057 (''the '057 patent''); U.S. Design Patent No. D739,574 (''the '574 patent''); U.S. Design Patent No. D740,980 (''the '980 patent''); U.S. Design Patent No. D759,864 (''the '864 patent''); U.S. Design Patent No. D759,865 (''the '865 patent''); U.S. Design Patent No. D771,292 (''the '292 patent''); U.S. Design Patent No. D780,351 (''the '351 patent''); U.S. Design Patent No. D818,163 (''the '163 patent''); U.S. Design Patent No. D829,947 (''the '947 patent'') and U.S. Design Patent No. D834,225 (''the '225 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainants request 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: Jessica Mullan, 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 (2021).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 18, 2022, *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 the claim of the '478 patent; the claim of the '8835 patent; the claim of the '836 patent; the claim of the '583 patent; the claim of the '319 patent; the claim of the '812 patent; the claim of the '5835 patent; the claim of the '690 patent; the claim of the '217 patent; the claim of the '436 patent; the claim of the '003 patent; the claim of the '057 patent; the claim of the '574 patent; the claim of the '980 patent; the claim of the '864 patent; the claim of the '865 patent; the claim of the '292 patent; the claim of the '351 patent; the claim of the '163 patent; the claim of the '947 patent; and the claim of the '225 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 ''replacement automotive headlamps and taillamps for certain Hyundai-branded automobiles'';

(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:

Hyundai Motor Company, 12, Heolleung-ro, Seocho-gu, Seoul 06797, Republic of Korea

Hyundai Motor America, Inc., 10550 Talbert Avenue, Fountain Valley, CA 92708

(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:

TYC Brother Industrial Co., Ltd., No. 72–2, Shin-Leh Road, An-Ping Industrial District, Tainan, Taiwan 70248

Genera Corporation (dba. TYC Genera), 2800 Saturn Street, Brea, CA 92821

LKQ Corporation, 500 West Madison Street, Suite 2800, Chicago, IL 60661

Keystone Automotive Industries, Inc., 44 Tunkhannock Avenue, Exeter, PA 18643

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

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 complainants 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: January 19, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–01252 Filed 1–21–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1291]

Certain Replacement Automotive Lamps; Notice of 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 December 15, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Kia Corporation of Korea and Kia America, Inc. of Irvine, California. A supplement to the Complaint was filed on January 6, 2022. 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 replacement automotive lamps by reason of infringement of U.S. Design Patent No. D592,773 (''the '773 patent''); U.S. Design Patent No. D635,701 (''the '701 patent''); U.S. Design Patent No. D636,506 (''the '506 patent''); U.S. Design Patent No. D650,931 (''the '931 patent''); U.S. Design Patent No. D695,933 (''the '933 patent''); U.S. Design Patent No. D705,963 (''the '963 patent''); U.S. Design Patent No. D709,218 (''the '218 patent''); U.S. Design Patent No. D714,975 (''the '975 patent''); U.S. Design Patent No. D714,976 (''the '976 patent''); U.S. Design Patent No. D720,871 (''the '871 patent''); U.S. Design Patent No. D749,757 (''the '757 patent''); U.S. Design Patent No. D749,762 (''the '762 patent''); U.S. Design Patent No. D749,764 (''the '764 patent''); U.S. Design Patent No. D774,222 (''the '222 patent''); U.S. Design Patent No. D774,223 (''the '223 patent''); U.S. Design Patent No. D776,311 (''the '311 patent''); U.S. Design Patent No. D781,471 (''the '471 patent''); U.S. Design Patent No. D785,833 (''the '833 patent''); U.S. Design Patent No. D785,836 (''the '836 patent''); and U.S. Design Patent No. D792,989 (''the '989 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: Jessica Mullan, 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 (2021).

Scope Of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 18, 2022, *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 the claim of the '773 patent; the claim of the '701 patent; the claim of the '506 patent; the claim of the '931 patent; the claim of the '933 patent; the claim of the '963 patent; the claim of the '218 patent; the claim of the '975 patent; the claim of the '976 patent; the claim of the '871 patent; the claim of the '757 patent; the claim of the '762 patent; the claim of the'764 patent; the claim of the '222 patent; the claim of the '223 patent; the claim of the '311 patent; the claim of the '471 patent; the claim of the '833 patent; the claim of the '836 patent; and the claim of the '989 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 ''replacement automotive headlamps and taillamps for certain Kia-branded automobiles'';

(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:

Kia Corporation, 12, Heolleung-ro, Seocho-gu, Seoul 06797

Republic of Korea, Kia America, Inc., 111 Peters Canyon Rd., Irvine, CA 92606

(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:

TYC Brother Industrial Co., Ltd., No. 72–2, Shin-Leh Road, An-Ping Industrial District, Tainan, Taiwan 70248

Genera Corporation (dba. TYC Genera), 2800 Saturn Street, Brea, CA 92821

LKQ Corporation, 500 West Madison Street, Suite 2800, Chicago, IL 60661

Keystone Automotive Industries, Inc., 44 Tunkhannock Avenue, Exeter, PA 18643

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

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 complainants 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: January 18, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–01235 Filed 1–21–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Mobile Telephones, Tablet Computers with Cellular Connectivity, and Smart Watches with Cellular Connectivity, Components Thereof, and Products Containing Same, DN 3595;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Ericsson Inc. and Telefonaktiebolaget LM Ericsson on January 18, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile telephones, tablet computers with cellular connectivity, and smart watches with cellular connectivity, components thereof, and products containing same. The complainant names as respondent: Apple, Inc. of Cupertino, CA. The complainant requests that the Commission issue a limited exclusion order, a cease and desist order, and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3595'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: January 18, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–01211 Filed 1–21–22; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1218]

Certain Variable Speed Wind Turbine Generators and Components Thereof; Notice of the Commission's Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930, as amended, by Siemens Gamesa Renewable Energy Inc.; Siemens Gamesa Renewable Energy A/S; and Gamesa Electric, S.A.U., and has determined to issue a limited exclusion order and cease and desist orders. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 8, 2020, based on a complaint filed on behalf of General Electric Company of Boston, Massachusetts (''GE''). 85 FR 55492–93 (Sept. 8, 2020). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain variable speed wind turbine generators and components thereof by reason of infringement of one or more of claims 1, 3, 6, 7, 12, 15–16, 21–24, 29, 30, and 33–38 of U.S. Patent No. 6,921,985 (''the '985 patent'') and claims 1 and 2 of the U.S. Patent No. 7,629,705 (''the '705 patent''). *Id.* at 55493; Order No. 10 (Dec. 2, 2020), *unreviewed by* Comm'n Notice (Dec. 22, 2020). *Id.* The Commission's notice of investigation named as respondents Siemens Gamesa Renewable Energy Inc. of Orlando, Florida; Siemens Gamesa Renewable Energy A/S of Brande, Denmark; and Gamesa Electric, S.A.U. of Zamudio, Spain (collectively, ''SGRE''). *Id.* at 26493; 85 FR 55493. The Office of Unfair Import Investigations is not a party to the investigation. *Id.*

The Commission subsequently terminated the investigation with respect to claims 3, 7, 15, 16, 21–24, 36, and 38 of the '985 patent and claim 2 of the '705 patent based on GE's partial withdrawal of the complaint. Order No. 20 (Mar. 30, 2021), *unreviewed by* Comm'n Notice (Apr. 15, 2021) (terminating the investigation with respect to claims 3, 7, 36, and 38 of the '985 patent and claim 2 of the '705 patent); Order No. 24 (Apr. 26, 2021), *unreviewed by* Comm'n Notice (May 17, 2021) (terminating the investigation with respect to claims 15, 16, and 21–24 of the '985 patent). Accordingly, at the time of the Final ID, the remaining asserted claims were claims 1, 6, 12, 29, 30, 33–35, and 37 of the '985 patent and claim 1 of the '705 patent.

The Commission also issued a summary determination that GE satisfied the economic prong of the domestic industry requirement with respect to both asserted patents. Order No. 23 (Apr. 26, 2021), *unreviewed by* Comm'n Notice (May 26, 2021).

On September 10, 2021, the ALJ issued a final initial determination (''Final ID'') finding a violation of section 337 with respect to claims 1, 6, 12, 29, 30, 33–35, and 37 of the '985 patent and finding no violation with respect to claim 1 of the '705 patent. Final ID at 147. The Final ID found that GE showed that SGRE induced infringement of claims 1, 6, 12, 29, 30, 33–35, and 37 of the '985 patent and claim 1 of the '705 patent, and that GE showed that it satisfied the technical prong of the domestic industry requirement with respect to both patents. The Final ID also found that SGRE showed that claim 1 of the '705 patent is directed to ineligible subject matter but failed to show that any asserted claim of the '985 patent is invalid or patent ineligible.

On September 22 and 24, 2021, GE and SGRE, respectively, filed petitions for review of the Final ID. GE and SGRE opposed each other's petitions on September 30, 2021, and October 4, 2021, respectively.

On November 12, 2021, the Commission determined to review the

Final ID in part. Specifically, the Commission determined to review the following issues: (1) The Final ID's finding that the accused products satisfy the limitation ''a second mode of operation comprising the low voltage event'' of claims 1, 6, and 12 of the '985 patent; (2) the Final ID's finding that the accused turbines having a doubly-fed induction generator (''DFIG'') satisfy the limitation ''turbine controller causes the blade pitch control system to vary the pitch of the one or more blades'' of claims 1, 6, and 12 of the '985 patent; (3) the Final ID's finding that certain full-converter turbines with later versions of software and DFIG Products infringe claims 29, 30, 33–35, and 37 of the '985 patent; and (4) the Final ID's finding that the accused products satisfy the limitation ''during the entire duration of and subsequent to a zero voltage fault that lasts for an undetermined period of time'' of claim 1 of the '705 patent. The Commission also determined to take no position on whether GE showed that the accused products satisfy the limitation ''during the entire duration of and subsequent to a zero voltage fault that lasts for an undetermined period of time,'' and therefore affirmed the Final ID's finding of no violation as to claim 1 of the '705 patent based on 35 U.S.C. 101. The Commission did not review any other findings presented in the final ID.

The Commission sought briefing from the parties on six issues and requested briefing from the parties, interested government agencies, and interested persons on remedy, bonding, and the public interest. On December 7, 2021, GE and SGRE filed their initial submissions in response to the Commission's request for briefing. On December 14, 2021, GE and SGRE filed their reply submissions in response to the Commission's request for briefing. The Commission also received submissions from U.S. Representative Paul Tonko; U.S. Representative William Timmons; Senator Patrick Leahy; Senator Tim Scott; Senators John Hoeven, Kevin Cramer, and Kelly Armstong; Senators Charles Grassley and Joni Ernst; Governor Kim Reynolds of Iowa; Governor Laura Kelly of Kansas; RWE Renewables Americas, LLC; Enel Green Power North America, Inc.; Avangrid Renewables, LLC; Allete Clean Energy; Clearway Energy Group, LLC; Algonquin Power & Utilities Corp.; and MidAmerican Energy Company.

Having examined the record of this investigation, including the Final ID, the petitions for review, responses, and other submissions from the parties and the public, the Commission has determined that GE failed to show any accused SGRE products satisfies the limitation ''a second mode of operation comprising the low voltage event'' found in claims 1, 6, and 12 of the '985 patent. The Commission has further determined that GE failed to show that the accused SGRE DFIG products satisfy the limitation ''turbine controller causes the blade pitch control system to vary the pitch of the one or more blades'' of claims 1, 6, and 12 of the '985 patent. Finally, the Commission finds that GE showed that the accused full-converter wind turbine generators with earlier versions of software infringe claims 29, 30, 33–35, and 37 of the '985 patent, but that GE did not show that the accused DFIG wind turbines generators or the accused full-converter wind turbine generators with later versions of software infringed those claims. The Commission therefore reverses the Final ID's finding that SGRE infringes claims 1, 6, and 12 of the '985 patent, but finds that GE showed infringement of claims 29, 30, 33–35, and 37 of the '985 patent by the accused full-converter wind turbine generators with earlier versions of software. Accordingly, the Commission finds that GE has shown a violation of section 337 by SGRE with respect to claims 29, 30, 33–35, and 37 of the '985 patent.

The Commission's determinations are explained more fully in the accompanying Opinion. All other findings in the ID under review that are consistent with the Commission's determinations are affirmed.

The Commission has determined that the appropriate form of relief in this investigation is a limited exclusion order with respect to SGRE prohibiting the importation of certain variable speed wind turbine generators and components thereof that are covered by one or more of claims 29, 30, 33–35, and 37 of the '985 patent, and cease and desist orders that prohibits SGRE from further importing, selling, and distributing those products in the United States. The Commission has further determined that the public interest factors enumerated in subsection 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1) and (f)(1)) warrant an exemption in both orders for the service and repair of subject articles that were sold to U.S. consumers as of the date of the orders, but do not otherwise preclude the issuance of the limited exclusion order or the cease and desist orders. Finally, the Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of zero percent (0%) (*i.e.,* no bond) of the entered value of such articles.

The Commission's notice, order, and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury and Customs and Border Protection of the order. The investigation is hereby terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 18, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–01234 Filed 1–21–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–875]

Importer of Controlled Substances Application: Globyz Pharma, LLC; Correction

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application; correction.

SUMMARY: The Drug Enforcement Administration (DEA) published a document in the **Federal Register** on August 12, 2021, concerning a notice of application. The document indicated the approved drug code (1205—Lisdexamfetamine) as a schedule I. The correct drug schedule should read schedule II.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of August 12, 2021, in FR Doc. 2021–17181 (86 FR 44405), on page 44406, in the first column, in the controlled substance table, correct the drug schedule to schedule II.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2022–00852 Filed 1–21–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–12002]

Withdrawal of Notice of Proposed Exemption Involving the Retirement System of the American National Red Cross Located in Washington, DC

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of withdrawal of proposed exemption.

SUMMARY: This document provides withdrawal of a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and/or the Internal Revenue Code of 1986 (the Code).

FOR FURTHER INFORMATION CONTACT: Anna Vaughan of the Department at (202) 693–8565. (This is not a toll-free number.)

Withdrawal of Proposed Exemption

In the **Federal Register** dated November 18, 2021 (86 FR 64688), the Department of Labor (the Department) published a notice of proposed exemption (the Notice) from ERISA and the Code.

The Notice proposed the following transactions: (a) The in-kind contribution (the Contribution) by the American National Red Cross (the Red Cross) of nine condominium units located at 2025 E Street NW, Washington DC to the Retirement System of The American National Red Cross (the Plan); and (b) the assignment of certain rights and obligations from the Red Cross to the Plan in connection with the Contribution.

Subsequent to the publication of the Notice in the **Federal Register**, the Red Cross informed the Department that the Red Cross had decided not to pursue the requested exemption, due to changed circumstances.

Therefore, under the authority of ERISA Section 408(a) and Code Section 4975(c)(2) the Department is hereby withdrawing the Notice from the **Federal Register**.

Signed at Washington, DC.

George Christopher Cosby,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2022–01236 Filed 1–21–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Unemployment Insurance Data Validation (DV) Program

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Unemployment Insurance Data Validation (DV) Program.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by March 25, 2022.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Rachel Beistel by telephone at 202–693–2736 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *Beistel.Rachel@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4519, 200 Constitution Avenue NW, Washington, DC 20210, by email: *Beistel.Rachel@dol.gov,* or by Fax 202–693–3975.

FOR FURTHER INFORMATION CONTACT: Rachel Beistel by telephone at 202–693–2746 (this is not a toll-free number) or by email at *beistel.rachel@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure 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 can be properly assessed.

Section 303(a)(6) of the Social Security Act specifies that the Secretary of Labor will not certify State UI programs to receive administrative grants unless the State's law includes provisions for ''making of such reports . . . as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports.'' DOL considers DV to be one of those ''provisions . . . necessary to assure the correctness and verification'' of the reports submitted by states.

The Government Performance and Results Act of 1993 (GPRA) requires Federal agencies to develop annual and strategic performance plans that establish performance goals, have concrete indicators of the extent that goals are achieved, and set performance targets. Each year, the agency is to issue a report that ''evaluate[s] the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report.'' DOL emphasizes the importance of complete and accurate information for program monitoring and improving program performance ''. . . as a framework for agencies to communicate progress in achieving their missions.'' (OMB Circular A–11, Section 15.5).

The UI DV program employs a refined and automated approach to review 363 elements reported on 15 UI Benefits reports and 1 UI Tax report. DOL uses many of these elements for key performance measures and for workload analysis.

The validation process assesses the accuracy of the counts of transactions. Guided by a detailed handbook, the state UI agency first constructs extract files containing all pertinent individual transactions for the desired report period to be validated. These transactions are grouped into 16 UI Benefits and 5 UI Tax populations. Each transaction record contains the necessary characteristics or dimensions that enable it to be summed into an independent recount of what the state has already reported. DOL provides state agencies with software that edits the extract file (to identify and remove duplicate transactions and improperly built records, for example), then aggregates the transactions to produce an independent reconstruction or ''validation count'' of the reported figure. The reported count is considered valid by this ''quantity'' validation test if it is within plus or minus two percent

of the validation count (plus or minus one percent for a GPRA-related element).

The software also draws samples of most transaction types from the extract files. Guided by a state-specific handbook, the validators review these sample records against documentation in the state's management information system to determine whether the transactions in the extract file are supported by system documentation. This qualitative check determines whether the state management information system accurately reflects data elements of UI transactions. The UI Benefits extract files are considered to pass this ''quality'' review if random samples indicate that no more than five percent of the records contain errors. The UI Tax extract files are subjected to different ''quality'' tests. An extract file of a population is considered valid only if the reported count differs from the reconstructed (validation) count by no more than the appropriate criterion of plus or minus two percent or plus or minus one percent and the samples of transactions have satisfied all quality tests.

For Federal fiscal years 2011 and beyond, all states are required to conduct a complete validation every three years. In the following three cases, the three-year rule does not apply and a re-validation must occur within one year: (1) Groups of reported counts that are summed for purposes of making a Pass/Fail determination and do not pass validation by being within plus or minus two percent of the reconstructed counts or the extract file does not pass all quality tests; (2) the validation applies to the two UI Benefits populations and one UI Tax population used for GPRA measures; and (3) reports are produced by new reporting software following a state's information technology modernization effort. Every year, states must also certify that Module 3, the state specific validation manual of the UI Benefits and UI Tax information systems, are up to date. Section 303(a)(6) of the Social Security Act authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0431.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL 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 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).

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Unemployment Insurance (UI) Data Validation (DV).

Form: ETA Handbooks 361 and 411.

OMB Control Number: 1205–0431.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Varies.

Total Estimated Annual Responses: 53.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 23,644.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–01245 Filed 1–21–22; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–006)]

Notice of Deep Space Food Challenge Phase 2

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Deep Space Food Challenge Phase 2.

SUMMARY: Phase 2 of the Deep Space Food Challenge is open, and teams that wish to compete may now register. NASA seeks to stimulate research and technology solutions to support future missions and inspire new national aerospace capabilities through public prize competitions called Centennial Challenges. The Deep Space Food Challenge is one such competition. Centennial Challenges are managed at NASA's Marshall Space Flight Center in Huntsville, Alabama and are part of the Prizes, Challenges, and Crowdsourcing program within NASA's Space Technology Mission Directorate at the agency's Headquarters in Washington. Phase 2 of the Deep Space Food Challenge is a prize competition with a total prize purse of $1,000,000 USD, (one million United States dollars) to be awarded to Competitor Teams that build and successfully demonstrate prototypes of novel technologies, systems and approaches for food production for long duration space exploration missions. Teams are not required to have participated in Phase 1 and must meet eligibility requirements in order to participate. NASA is providing the prize purse for U.S. Teams, and the Methuselah Foundation will be conducting the Challenge on behalf of NASA. NASA is considering a Phase 3 (full system demonstration phase) of the competition depending on the outcome of the Phase 2 competition.

DATES: Challenge registration for Phase 2 opened January 20, 2022 and will remain open until February 28, 2022. No further requests for registration will be accepted after the stated deadline. Other important dates, including deadlines for key deliverables from the Teams, are listed on the Challenge website: *deepspacefoodchallenge.org.*

ADDRESSES: Phase 2 of the Deep Space Food Challenge requires competitors to

build and demonstrate their prototypes at their own facility. Required samples from the prototypes will be sent to external laboratories for testing as described in the Official Rules document.

FOR FURTHER INFORMATION CONTACT: To register for or get additional information regarding the Deep Space Food Challenge, please visit: *deepspacefoodchallenge.org*.

Questions and comments regarding the challenge should be addressed to Monsi Roman, Centennial Challenges Program Manager, NASA Marshall Space Flight Center, Huntsville, AL 35812. Email address: *hq-stmd-centennialchallenges@mail.nasa.gov*. For general information on NASA prize competitions, challenges, and crowdsourcing opportunities, please visit: *nasa.gov/solve.*

For general information on the Canadian Space Agency please visit: *https://www.canada.ca/en/space-agency.html*. General questions and comments regarding the program should be addressed to *ASC.DefiAEL-DSFChallenge.CSA@canada.ca*.

SUPPLEMENTARY INFORMATION:

Summary

Food is a critical component of human space exploration missions. When humans return to the lunar surface, the early missions are expected to use prepackaged foods similar to those in use on the International Space Station (ISS) today but extending the duration of lunar missions requires reducing resupply dependency on Earth. Thus, testing a sustainable system on the Moon that meets lunar crews' needs is a fundamental step for both lunar sustainability and will also support Mars exploration. As part of this, space agencies are focused on how to furnish crew members with a viable system that produces food for all long duration space missions. Solutions from the Deep Space Food Challenge could be part of the larger food system as an integrated solution that:

- Provides all daily nutritional needs
- Provides a variety of palatable and safe food choices
- Enables acceptable, safe, and quick preparation methods
- Limits resource requirements with no dependency on direct periodic resupply from Earth over durations increasing from months to years

In short, space agencies will need to provide their future crew members with nutritious foods they will enjoy eating within all of the constraints of current technology for life away from Earth. They must also ensure that the process to create, grow, and/or prepare the food is not time consuming and not unpleasant. Although there are many food systems on Earth that may offer benefits to space travelers, the ability of these systems to meet spaceflight demands has not yet been established.

Additionally, food insecurity is a significant chronic problem on Earth in urban, rural, and harsh environments and communities. In places like the Arctic and Canada's North, the cost of providing fresh produce on the shelves can be incredibly high. This can also support greater food production in other milder environments, including major urban centers where vertical farming, urban agriculture and other novel food production techniques can play a more significant role.

Disasters can also disrupt supply chains, on which all people depend, and further aggravate food shortages. Developing compact and innovative advanced food system solutions can further enhance local production and reduce food supply chain challenges, providing new solutions for humanitarian responses to floods and droughts, and new technologies for rapid deployment following disasters.

The Deep Space Food Challenge will identify technology solutions that can:

- Help fill food gaps for a crew of 4 for a three-year round-trip mission with no resupply
- Improve the accessibility of food on Earth, in particular, via production directly in urban centers and in remote and harsh environments
- Achieve maximum food output with minimal inputs and minimal waste
- Create a variety of palatable, nutritious, and safe foods that requires little processing time for crew members

This Challenge seeks to incentivize Teams to develop novel technologies, systems and/or approaches for food production that need not meet the full nutritional requirements of future crews but can contribute significantly to and be integrated into a comprehensive food system.

I. Prize Amounts

Phase 2 of the Deep Space Food Challenge has a total prize purse of $1,000,000 USD, (one million United States dollars).

Up to 10 top scoring U.S. Teams will be named ''finalists'' and will receive $20,000 USD each from NASA and will move on to compete in the final on-site demonstration.

After the final on-site demonstration up to 5 top scoring U.S. Teams will each be awarded $150,000 USD each and be invited to compete in Phase 3 (should Phase 3 open for competition).

Additionally, a total of $50,000 USD will be available for bonus prizes for up to 5 U.S. Teams to be awarded when finalists Teams are announced. U.S. Teams do not need to be named as a finalist in order to be awarded a bonus prize.

U.S. Teams must meet the eligibility requirements for the NASA Prize in order to receive a prize from NASA.

II. Eligibility To Participate and Win Prize Money

To be eligible to win a prize, competitors must register and comply with all requirements in the Official Rules. Interested Teams should refer to the official Challenge website (*deepspacefoodchallenge.org*) for full details on eligibility and registration.

III. Official Rules

The complete official rules for the Deep Space Food Challenge can be found at: *deepspacefoodchallenge.org*.

Deborah F. Bloxon,

NASA Federal Register Liaison Officer.

[FR Doc. 2022–01310 Filed 1–21–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) Committee on Oversight hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Wednesday, January 26, 2022, from 1:00–2:15 p.m. EST.

PLACE: This meeting will be held by teleconference through the National Science Foundation.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Committee Chair's opening remarks; Approval of prior Committee minutes; Discussion of Committee plans for the remainder of the NSB term; Committee Chair's opening remarks; Presentation on NSF's Annual Performance Report, and Committee discussion.

PORTIONS OPEN TO THE PUBLIC: Between 1:00–1:30 p.m. EST, the following matters will be considered: Committee Chair's opening remarks; Approval of prior Committee minutes; Discussion of Committee plans for the remainder of the NSB term.

PORTIONS CLOSED TO THE PUBLIC: Between 1:30–2:15 p.m. EST, the following matters will be considered: Committee Chair's opening remarks; Presentation on NSF's Annual Performance Report, and Committee discussion.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, 703/292–7000. Members of the public may observe the public portion of the meeting, which will be streamed to the NSB YouTube channel. A link to the YouTube page can be found at *https://www.nsf.gov/nsb/meetings/index.jsp#up.*

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2022–01380 Filed 1–20–22; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on revisions to the Business Systems Review (BSR) Guide. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments should be received by March 25, 2022 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Ave., Rm. E 7400, Alexandria, VA 22314, or by email to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION: This clearance request is for a renewal of the NSF Business Systems Review Guide (BSR). It aligns with the Uniform Guidance (UG) and the *NSF Research Infrastructure Guide* which is intended for use by NSF staff and by external proponents of major facility projects for use in planning. The primary purpose of this revision is to clarify the BSR process, update references to the revised UG, and address new requirements and policy in the UG and NSF terms and conditions. The draft version of the NSF BSR Guide is available on the NSF website at: *http://www.nsf.gov/bfa/lfo/lfo_documents.jsp.* To facilitate review, a Change Log with brief comment explanations of the changes is provided in the guide.

Comments: In addition to the type of comments identified above, comments are also 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; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Title of Collection: Business Systems Review Guide.

OMB Approval Number: 3145–0255.

Expiration Date of Approval: January 31, 2024.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Pub. L. 81–507) set forth NSF's mission and purpose:

''To promote the progress of science; to advance the national

health, prosperity, and welfare; to secure the national defense. * * *''

The Act authorized and directed NSF to initiate and support:

☐ Basic scientific research and research fundamental to the engineering process;

☐ Programs to strengthen scientific and engineering research potential;

☐ Science and engineering education programs at all levels and in all the various fields of science and engineering;

☐ Programs that provide a source of information for policy formulation; and

☐ Other activities to promote these ends.

Among Federal agencies, NSF is a leader in providing the academic community with advanced instrumentation needed to conduct state-of-the-art research and to educate the next generation of scientists, engineers and technical workers. The knowledge generated by these tools sustains U.S. leadership in science and engineering (S&E) to drive the U.S. economy and secure the future. NSF's responsibility is to ensure that the research and education communities have access to these resources, and to provide the support needed to utilize them optimally, and implement timely upgrades.

The scale of advanced instrumentation ranges from small research instruments to shared resources or facilities that can be used by entire communities. The demand for such instrumentation is very high, and is growing rapidly, along with the pace of discovery. For major facilities and shared infrastructure, the need is particularly high. This trend is expected to accelerate in the future as increasing numbers of researchers and educators rely on such large facilities, instruments, and databases to provide the reach to make the next intellectual leaps.

NSF currently provides support for facility construction from two accounts: the Major Research Equipment and Facility Construction (MREFC) account, and the Research and Related Activities (R&RA) account. The MREFC account, established in FY 1995, is a separate budget line item that provides an agency-wide mechanism, permitting directorates to undertake large facility projects, roughly $100M or greater, and mid-scale projects in the range of approximately $20–$100M.

Facilities are defined as shared-use infrastructure, instrumentation and equipment that are accessible to a broad community of researchers and/or educators. Facilities may be centralized or may consist of distributed installations. They may incorporate large-scale networking or computational infrastructure, multi-user instruments or networks of such instruments, or other infrastructure, instrumentation and equipment having a major impact on a broad segment of a scientific or

engineering discipline. Historically, awards have been made for such diverse projects as accelerators, telescopes, research vessels and aircraft, and geographically distributed but networked sensors and instrumentation.

The growth and diversification of large facility projects require that NSF remain attentive to the ever-changing issues and challenges inherent in their planning, construction, operation, management and oversight. Most importantly, dedicated, competent NSF and awardee staff are needed to manage and oversee these projects; giving the attention and oversight that good practice dictates and that proper accountability to taxpayers and Congress demands. To this end, there is also a need for consistent, documented requirements and procedures to be understood and used by NSF program managers and awardees for all such large projects.

Use of the Information: Facilities are an essential part of the science and engineering enterprise and supporting them is one major responsibility of the National Science Foundation (NSF). NSF makes awards to external entities—primarily universities, consortia of universities or non-profit organizations—to undertake construction, management and operation of facilities. Such awards frequently take the form of cooperative agreements. NSF does not directly construct or operate the facilities it supports. However, NSF retains responsibility for overseeing their development, management, and successful performance.

Business Systems Reviews (BSR) of NSF's Major Facilities are designed to provide reasonable assurance that the business systems (people, processes, and technologies) of NSF Recipients are effective in meeting administrative responsibilities and satisfying Federal regulatory requirements, including those listed in NSF's Proposal & Award Policies & Procedures Guide (PAPPG).

These reviews are not considered audits but are intended to be assistive in nature; aiding the Recipient in following good practices where appropriate and bringing them into compliance, if needed. A team of BSR participants is assembled to assess the Recipient's policies, procedures, and practices to determine whether, taken collectively, these administrative business systems used in managing the Facility meet NSF award expectations and comply with Federal regulations.

The BSR Guide is designed for use by both our customer community and NSF staff for guidance in executing these reviews. The BSR Guide defines the overall framework and structure and summarizes the details outlined in the internal operating guidelines and procedures used by BSR Participants to execute the review process. Management principles and practices are specified for seven core functional areas (CFA) and are used by BSR participants in performing these evaluations. Roles and responsibilities of the NSF stakeholders involved in the process are outlined in the BSR Guide as well as the expectations of the Recipient.

This version of the Business Systems Guide aligns with the Uniform Guidance and the *NSF Research Infrastructure Guide.* This Guide will be updated periodically to reflect changes in requirements, policies and/or procedures. Award Recipients are expected to monitor and adopt the requirements and good practices included in the Guide.

The submission of Award Recipient and Project administrative business process and procedural documentation used in support of operations of the Major Facilities is part of the collection of information. This information is used to help NSF fulfill this responsibility in supporting merit-based research and education projects in all the scientific and engineering disciplines. The Foundation also has a continuing commitment to provide oversight on facilities through their full life cycle which must be balanced against monitoring its information collection so as to identify and address any excessive review and reporting burdens.

NSF has approximately twenty (20) Major Facilities in various stages of design, construction, operations, and divestment. The need for a BSR and review scope is based on NSF's internal annual Major Facility Portfolio Risk Assessment and the assessment of various risks factors.

Burden to the Public: The Foundation estimates that approximately one and half (1.5) Full Time Equivalents (FTEs) are necessary for a major facility to respond to the requirements of a BSR; or 3,120 hours. With an average of four (4) BSRs conducted a year, this equates to roughly 12,000 public burden hours annually.

Dated: January 19, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer,National Science Foundation.

[FR Doc. 2022–01249 Filed 1–21–22; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93990; SR–CBOE–2022–003]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.5 To Improve the Operation of the Rule

January 18, 2022.

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 January 11, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 6.5 to improve the operation of the Rule. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 6.5. Nullification and Adjustment of Option Transactions Including Obvious Errors

* * * * *

(b) *Theoretical Price.* Upon receipt of a request for review and prior to any review of a transaction execution price, the ''Theoretical Price'' for the option must be determined. For purposes of this Rule, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last NBB just prior to the trade in question with respect to an erroneous sell transaction or the last NBO just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions in sub-paragraphs (b)(1) through (3) below exists. For purposes of this provision, when

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

a single order received by the Exchange is executed at multiple price levels, the last NBB and last NBO just prior to the trade in question would be the last NBB and last NBO just prior to the Exchange's receipt of the order. The Exchange will rely on this paragraph (b) and Interpretation and Policy .08 of this Rule when determining Theoretical Price.

(1)–(2) No change.

(3) *Wide Quotes.*

(A) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the erroneous transaction was equal to or greater than the Minimum Amount set forth below and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction. If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction then the Theoretical Price of an option series is the last NBB or NBO just prior to the transaction in question, as set forth in paragraph (b) above.

Bid price at time of trade	Minimum amount
Below $2.00	$0.75
$2.00 to $5.00	1.25
Above $5.00 to $10.00	1.50
Above $10.00 to $20.00	2.50
Above $20.00 to $50.00	3.00
Above $50.00 to $100.00	4.50
Above $100.00	6.00

(B) Customer Transactions Occurring Within 10 Seconds or Less After an Opening or Reopening

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an opening or reopening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to subparagraph (A) above.

(c) *Obvious Errors*

(1)–(3) No change.

(4) *Adjust or Bust.* If it is determined that an Obvious Error has occurred, the Exchange shall take one of the actions listed below. Upon taking final action, the Exchange shall promptly notify both parties to the trade electronically or via telephone.

(A) No change.

(B) *Customer Transactions.* Where at least one party to the Obvious Error is a Customer, *the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in subparagraph (a)(4) above. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,* the trade will be nullified, subject to subparagraph (4)(C) below.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend Rule 6.5, ''Nullification and Adjustment of Options Transactions including Obvious Errors,'' to improve the operation of the Rule. Following discussions with other exchanges and a cross-section of industry participants and in coordination with the Listed Options Market Structure Working Group (''LOMSWG'') (collectively, the ''Industry Working Group''), the Exchange proposes: (1) To amend subsection (b)(3) of Rule 6.5 to permit the Exchange to determine the Theoretical Price of a Customer option transaction in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening; and (2) to amend subsection (c)(4)(B) of Rule 6.5 to adjust, rather than nullify, Customer transactions in Obvious Error situations, provided the adjustment does not violate the limit price. The Commission recently approved an identical proposed rule change of NYSE Arca, LLC (''NYSE Arca'').[5] The Exchange understands that other options exchanges will also submit substantively identical proposals to the Commission.

Proposed Change to Subsection (b)(3)

Rule 6.5 has been part of various harmonization efforts by the Industry Working Group.[6] These efforts have often centered around the Theoretical Price for which an options transaction should be compared to determine whether an Obvious Error has occurred. For instance, all options exchanges have adopted language comparable to Rule 6.5, Interpretation and Policy .08,[7] which explains how an exchange is to determine Theoretical Price at the open, when there are no valid quotes, and when there is a wide quote. This includes at times the use of a singular third-party vendor, known as a TP Provider (currently CBOE Livevol, LLC).

Similarly, subsection (b)(3) of Rule 6.5 was previously harmonized across all options exchanges to handle situations where executions occur in markets that are wide (as set forth in the Rule).[8] Under that subsection, the Exchange determines the Theoretical Price if the NBBO for the subject series is wide immediately before execution and a narrow market (as set forth in the Rule) existed ''during the 10 seconds prior to the transaction.'' The Rule goes on to clarify that, should there be no narrow quotes ''during the 10 seconds prior to the transaction,'' the Theoretical Price for the affected series is the NBBO that existed at the time of execution (regardless of its width).

In recent discussions, the Industry Working Group has identified proposed changes to subsection (b)(3) of Rule 6.5 that the Industry Working Group believes would improve the Rule's functioning. Currently, subsection (b)(3) does not permit the Exchange to determine the Theoretical Price unless there is a narrow quote 10 seconds prior

[5] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[6] *See* Securities Exchange Act Release Nos. 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015) (SR–CBOE–2015–039); and 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) (SR–CBOE–2016–088).

[7] *See* Securities Exchange Act Release No. 81516 (August 31, 2017), 82 FR 42375 (September 7, 2017) (SR–CBOE–2017–058).

[8] *See* Securities Exchange Act Release No. 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015) (SR–CBOE–2015–039).

to the transaction. However, in the first seconds of trading, there is no 10-second period ''prior to the transaction.'' Further, the Industry Working Group has observed that prices in certain series can be disjointed at the start of trading. Accordingly, the Exchange proposes to provide additional protections to trading in certain circumstances immediately after the opening before liquidity has had a chance to enter the market. The Exchange proposes to amend subsection (b)(3) to allow the Exchange to determine the Theoretical Price in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening.

Specifically, the Exchange proposes that the existing text of subsection (b)(3) would become subparagraph ''(A).'' The Exchange proposes to add the following heading and text as subparagraph ''(B)'':

(B) Customer Transactions Occurring Within 10 Seconds or Less After an Opening or Reopening

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an opening or reopening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to subparagraph (A) above.

The following examples illustrate the functioning of the proposed rule change. Consider that the NBBO of a series opens as $0.01 at $4.00. A marketable limit order to buy one contract arrives one second later and is executed at $4.00. In the third second of trading, the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within the 10 seconds prior to execution. Accordingly, under the current rule, the trade would not qualify for obvious error review, in part due to the fact that there was only a single second of trading before the execution. Under the proposal, since a tight market existed at some point in the first 10 seconds of trading (*i.e.,* in the third second), the Exchange would be able to determine the Theoretical Price as provided in Interpretation and Policy .08.

As another example, the NBBO for a series opens as $0.01 at $4.00. In the seventh second of trading, a marketable limit order is received to buy one contract and is executed at $4.00. Five seconds later (*i.e.,* in the twelfth second of trading), the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within 10 seconds prior to execution. Accordingly, under the current Rule, the trade would not qualify for obvious error review. Under the proposal, since no tight market existed at any point during the first 10 seconds of trading (*i.e.,* the narrow market occurred in the twelfth second), the trade would not qualify for obvious error review.

The proposed rule change would also better harmonize subsection (b)(3) with subsection (b)(1) of Rule 6.5. Under subsection (b)(1), the Exchange is permitted to determine the Theoretical Price for transactions occurring as part of the Opening Process (as defined in Rule 5.31) if there is no NBB or NBO for the affected series just prior to the erroneous transaction. However, under the current version of subsection (b)(3), a core trading transaction could occur in the same wide market but the Exchange would not be permitted to determine the Theoretical Price. Consider an example where, one second after the Exchange opens a selected series, the NBBO is $1.00 at $5.00. At 9:30:03, a customer submits a marketable buy order to the Exchange and pays $5.00. At 9:30:03, a different exchange runs an opening auction that results in a customer paying $5.00 for the same selected series. At 9:30:06, the NBBO changes from $1.00 at $5.00 to $1.35 at $1.45. Under the current version of subsection (b)(3), the Exchange would not be able to determine the Theoretical Price for the trade occurring during core trading. However, the trade on the other exchange could be submitted for review under subsection (b)(1) and that exchange would be able to determine the Theoretical Price. If the proposed change to subsection (b)(3) were approved, both of the trades occurring at 9:30:03 (on the Exchange during core trading and on another exchange via auction) would also be entitled to the same review regarding the same Theoretical Price based upon the same time.

The proposal would not change any obvious error review beyond the first 10 seconds of an opening or re-opening.

Proposed Change to Subsection (c)(4)(B)

The Exchange proposes to amend subsection (c)(4)(B) of Rule 6.5—the ''Adjust or Bust'' rule for Customer transactions in Obvious Error situations—to adjust rather than nullify such orders, provided the adjustment does not violate the Customer's limit price. Currently, the Rule provides that in Obvious Error situations, transactions involving non-Customers should be adjusted, while transactions involving Customers are nullified, unless a certain condition applies.[9] The Industry Working Group has concluded that the treatment of these transactions should be harmonized under the Rule, such that transactions involving Customers may benefit from adjustment, just as non-Customer transactions currently do, except where such adjustment would violate the Customer's limit price; in that instance, the trade would be nullified.

Specifically, the Exchange proposes to amend the text of subsection (c)(4)(B) to add that where at least one party to the Obvious Error is a Customer, ''the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in subparagraph (a)(4) of the Rule. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,'' the trade will be nullified. The ''table immediately above'' referenced in the proposed text refers to the table at current subsection (c)(4)(A), which provides for the adjustment of prices a specified amount away from the Theoretical Price, rather than adjusting the Theoretical Price.

The Exchange proposes no other changes at this time.

Implementation Date

The Exchange will announce the operative date of the proposed changes

[9] Specifically, the current Rule provides at subsection (c)(4)(C) that if a TPH has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of two minutes or less, where at least one party to the Obvious Error is a non-Customer, then the Exchange will apply the non-Customer adjustment criteria found in subsection (c)(4)(A).

in accordance with Rule 1.5.[10] The proposed changes will become operative no sooner than six months from the date the Commission approved the identical NYSE Arca filing [11] in order for the Exchange's implementation of the proposed rule changes to coincide with the implementation of the same changes on all other options exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed change to subsection (b)(3) of Rule 6.5 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest because it provides a method for addressing Obvious Error Customer transactions that occur in a wide market at the opening of trading. Generally, a wide market is an indication of a lack of liquidity in the market such that the market is unreliable. Current subsection (b)(3) recognizes that a persistently wide quote (*i.e.,* more than 10 seconds) should be considered the reliable market regardless of its width but does not address transactions that occur in a wide market in the first seconds of trading, where there is no preceding 10-second period to reference. Accordingly, in the first 10 seconds of trading, there is no opportunity for a wide quote to have persisted for a sufficiently lengthy period such that the market should consider it a reliable market for the purposes of determining an Obvious Error transaction.

The proposed change would rectify this disparity and permit the Exchange to consider whether a narrow quote is present at any time during the 10-second period after an opening or re-opening. The presence of such a narrow quote would indicate that the market has gained sufficient liquidity and that the previous wide market was unreliable, such that it would be appropriate for the Exchange to determine the Theoretical Price of an Obvious Error transaction. In this way, the proposed rule harmonizes the treatment of Customer transactions that execute in an unreliable market at any point of the trading day, by making them uniformly subject to Exchange determination of the Theoretical Price.

The Exchange believes that the proposed change to subsection (c)(4)(B) of the Rule would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by harmonizing the treatment of non-Customer transactions and Customer transactions under the Rule. Under the current Rule, Obvious Error situations involving non-Customer transactions are adjusted, while those involving Customer transactions are generally nullified, unless they meet the additional requirements of subsection (c)(4)(C) (*i.e.,* where a TPH has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of two minutes or less). The proposal would harmonize the treatment of non-Customer and Customer transactions by providing for the adjustment of all such transactions, except where such adjustment would violate the Customer's limit price.

When it proposed the current rule in 2015, the Exchange believed there were sound reasons for treating non-Customer transactions and Customer transactions differently. At the time, the Exchange stated its belief that ''Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts,'' and that nullifying Obvious Error transactions involving Customers would give Customers ''greater protections'' than adjusting such transactions by eliminating the possibility that a Customer's order will be adjusted to a significantly different price. The Exchange also noted its belief that ''Customers are . . . less likely to have engaged in significant hedging or other trading activity based on earlier transactions, and thus, are less in need of maintaining a position at an adjusted price than non-Customers.'' [15]

Those assumptions about Customer trading and hedging activity no longer hold. The Exchange and the Industry Working Group believe that over the course of the last five years, Customers that use options have become more sophisticated, as retail broker-dealers have enhanced the trading tools available. Pursuant to OCC data, volumes clearing in the Customer range have expanded from 12,022,163 ADV in 2015 to 35,081,130 ADV in 2021. This increase in trading activity underscores the greater understanding of options by Customers as a trading tool and its use in the markets. Customers who trade options today largely are more educated, have better trading tools, and have better access to financial news than any time prior.[16] The proposed rule would extend the hedging protections currently enjoyed by non-Customers to Customers, by allowing them to maintain an option position at an adjusted price, which would in turn prevent a cascading effect by maintaining the hedge relationship between the option transaction and any other transactions in a related security.

The Exchange believes that extending such hedging protections to Customer transactions would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by providing greater certainty of execution for all participants to options transactions. Under the current Rule, a Customer that believes its transaction was executed pursuant to an Obvious Error may be disincentivized from submitting the transaction for review, since during the review process, the Customer would be uncertain whether the trade would be nullified, and if so, whether market conditions would still

[10] Pursuant to Rule 1.5, the Exchange announces to TPHs all determinations it makes pursuant to the Rules via: (1) Specifications, notices, or regulatory circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

[11] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] *See* Securities Exchange Act Release No. 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015) (SR–CBOE–2015–039).

[16] *See* ''Retail Traders Adopt Options En Masse'' by Dan Raju, *available at https://www.nasdaq.com/articles/retail-traders-adopt-options-en-masse-2020-12-08.*

permit the opportunity to execute a related order at a better price after the nullification ruling is finalized. In contrast, under the proposed rule, the Customer would know that the only likely outcomes of submitting a trade to Obvious Error review would be that the trade would stand or be re-executed at a better price; the trade would only be nullified if the adjustment would violate the order's limit. Similarly, under the current Rule, during the review period, a market maker who traded contra to the Customer would be uncertain if it should retain any position executed to hedge the original trade, or attempt to unwind it, possibly at a significant loss. Under the proposed rule change, this uncertainty is largely eliminated, and the question would be whether the already executed and hedged trade would be adjusted to a better price for the Customer, or if it would stand as originally executed. In this way, the proposed rule enhances the protection of investors and removes impediments to and perfects the mechanism of a free and open market and a national market system.

The proposed rule also addresses the concern the Exchange cited in its 2015 filing that adjusting, rather than nullifying, Customer transactions could lead to a Customer's order being adjusted to a significantly different price. To address that concern, the proposed rule would prevent Customer transactions from being adjusted to a price that violates the order's limit; if the adjustment would violate a Customer's limit, the trade would instead be nullified. The Exchange believes it is in the best interest of investors to expand the availability of adjustments to Customer transactions in all Obvious Error situations except where the adjustment would violate the Customer's limit price.

Further, the Exchange believes that, with respect to such proposed adjustments to Customer transactions, it is appropriate to use the same form of adjustment as is currently in place with respect to non-Customer transactions as laid out in the table in subsection (c)(4)(A). That is, the Exchange believes that it is appropriate to adjust to prices a specified amount away from the Theoretical Price rather than to adjust the Theoretical Price, even though the Exchange has determined a given trade to be erroneous in nature, because the parties in question should have had some expectation of execution at the price or prices submitted. Also, it is common that by the time it is determined that an Obvious Error has occurred, additional hedging and trading activity has already occurred based on the executions that previously happened. The Exchange believes that providing an adjustment to the Theoretical Price in all cases would not appropriately incentivize market participants to maintain appropriate controls to avoid potential errors, while adjusting to prices a specified amount away from the Theoretical Price would incentivize such behavior.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change to subsection (b)(3) would apply to all instances of a wide market occurring within the first 10 seconds of trading followed by a narrow market at any point in the subsequent 10-second period, regardless of the types of market participants involved in such transactions. The proposed change to subsection (c)(4)(B) would harmonize the treatment of Obvious Error transactions involving Customers and non-Customers, no matter what type of market participants those parties may be.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is identical to a NYSE Arca proposed rule change recently approved by the Commission.[17] The Exchange anticipates that the other options exchanges will adopt substantively similar proposals, such that there would be no burden on intermarket competition from the Exchange's proposal. Accordingly, the proposed change is not meant to affect competition among the options exchanges. For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

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.

[17] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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[18] and Rule 19b–4(f)(6)[19] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2022–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2022–003. 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

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2022–003 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01222 Filed 1–21–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93995; File No. SR–CboeEDGA–2022–001]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Applicable to Various Market Data Products

January 18, 2022.

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 January 4, 2022, Cboe EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (''EDGA'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fees applicable to various market data products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Market Data section applicable to its equities trading platform (''EDGA Equities''). Particularly, the Exchange proposes to (i) adopt a New External Distributor Credit applicable to Cboe One Premium, and (ii) extend the New External Distributor Credit applicable to EDGA Summary Depth Feed from one (1) month to three (3) months.

By way of background, Cboe One Premium is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer (''BBO'') of all displayed orders for securities traded on EDGA and its affiliated exchanges (*i.e.,* Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGX Exchange, Inc. (''EDGX''), and Cboe BZX Exchange, Inc. (''BZX'')) and contains optional functionality which enables recipients to receive aggregated two-sided quotations from EDGA and its affiliated equities exchanges for up to five (5) price levels.[3] Currently, the Exchange charges an external distribution fee of $12,500 per month to External Distributors[4] of Cboe One Premium. The Exchange now proposes to adopt a New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Summary[sic] Feed. The Exchange believes the proposal will incentivize External Distributors to enlist new users to receive Cboe One Premium. To ensure consistency across the Cboe Equity Exchanges, BZX, BYX, and EDGX will be filing companion proposals to reflect this proposal in their respective fee schedules.

The Exchange notes that it offers similar credits for other market data products. For example, the Exchange currently offers a one (1) month New External Distributor Credit applicable to Cboe One Summary,[5] which is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on EDGA and its affiliated equities exchanges and also contains individual last sale information for the EDGA and its affiliated equities exchanges.[6] It also offers a New External Distributor Credit of one (1) month for subscribers of EDGA Summary Depth, which is a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels. EDGA Summary Depth also contains the individual last sale information, Market Status, Trading

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Cboe Aggregated Market (''Cboe One'') Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges (*i.e.,* BYX, BZX, and EDGX). *See* Exchange Rule 13.8(b). The Cboe One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Cboe Equities Exchanges for up to five (5) price levels (''Cboe One Premium Feed''). *See* Exchange Rule 13.8(b)(i). The Cboe One Premium external distribution fee is equal to the aggregate EDGA Summary Depth, BYX Summary Depth, EDGA Summary Depth, and BZX Summary Depth external distribution fees.

[4] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

[5] *See* Exchange Rule 13.8(b).

[6] The Exchange notes that when it first adopted the New External Distributor Credit for Cboe One Summary, it similarly applied for a new External Distributor's first three (3) months. *See* Securities Exchange Act Release No. 74283 (February 18, 2015), 80 FR 9809 (February 24, 2015) (SR–EDGA–2015–09).

Status, and Trade Break messages.[7] As noted above, the External Distribution fees for Cboe One Summary is equivalent to the aggregate EDGA Summary Depth, BZX Summary Depth, BYX Summary Depth, and EDGX Summary Depth External Distribution fees. In order to alleviate any competitive issues that may arise with a vendor seeking to offer a product similar to the Cboe One Premium Feed based on the underlying data feeds, the Exchange proposes to also extend the current New External Distributor Credit for EDGA Summary Depth from one (1) month to three (3) months and the Exchange's affiliates BYX, BZX and EDGX are also submitting similar proposals to increase the length of their respective Summary Depth New External Distributor Credits from one (1) month to three (3) months. The respective proposals to extend these credits to three months ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to EDGA, EDGX, BYX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.[10] Finally, the proposed rule change is also consistent with Rule 603 of Regulation NMS,[11] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

The Exchange believes that adopting a New External Distributor Credit for Cboe One Premium is equitable and reasonable. As discussed above, a similar New External Distributor Fee Credit was initially adopted at the time the Exchange began to offer the Cboe One Summary to subscribers. It was intended to incentivize new Distributors to enlist Users to subscribe to Cboe One Summary in an effort to broaden the product's distribution. Now, the Exchange proposes to adopt a similar credit for Cboe One Premium subscribers for their first three (3) months to similarly incentivize new Distributors to enlist Users to subscribe to Cboe One Premium in an effort to broaden the product's distribution. While this incentive is not available to Internal Distributors of Cboe One Premium, the Exchange believes it is appropriate as Internal Distributors have no subscribers outside of their own firm. The Exchange believes extending the New External Distributor Credit for EDGA Summary Depth from one (1) month to three (3) months is also equitable and reasonable, as it (along with simultaneous corresponding proposals by the Exchange's affiliates) ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to EDGA, EDGX, BYX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by competition among exchanges that offer similar data products to their customers. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed credits would apply to all External Distributors Cboe One Premium and EDGA Depth on an equal and non-discriminatory basis. Further, the Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the proposed amendments are designed to enhance competition by providing an incentive to new Distributors to enlist new subscribers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and paragraph (f) of Rule 19b–4[13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2022–001 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–CboeEDGA–2022–001. 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

[7] *See* Exchange Rule 13.8(f).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78k–1.

[11] *See* 17 CFR 242.603.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

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–CboeEDGA–2022–001 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01226 Filed 1–21–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93996; File No. SR–CboeBYX–2022–001]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Applicable to Various Market Data Products

January 18, 2022.

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 January 4, 2022, Cboe BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fees applicable to various market data products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Market Data section applicable to its equities trading platform (''BYX Equities''). Particularly, the Exchange proposes to (i) decrease the External Distribution fee applicable to BYX Top, (ii) adopt a New External Distributor Credit applicable to Cboe One Premium, and (iii) extend the New External Distributor Credit applicable to BYX Summary Depth Feed from one (1) month to three (3) months.

Market Background

The Commission has repeatedly expressed its 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.''[3] As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.''[4]

Equity trading is currently dispersed across sixteen exchanges, more than 50 alternative trading systems,[5] and numerous broker-dealer internalizers and wholesalers, all competing fiercely for order flow. Based on publicly-available information, no single U.S. equities exchange has more than 17% market share.[6] In turn, the market for top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. In fact, there are twelve competing products offered by other national securities exchanges today,[7] not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. equities exchanges also offers similar top-of-book data. Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the BYX Top Feed.[8] Exchange top-of-book

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS Adopting Release'').

[4] *See* Securities Exchange Act Release No. 84875, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[5] See FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[6] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 10, 2021) available at *http://markets.cboe.com/us/equities/market_share/.*

[7] Competing top-of-book products include, Nasdaq Basic, BX Basic, PSX Basic, NYSE BQT, NYSE BBO/Trades, NYSE Arca BQT, NYSE Arca BBO/Trades, NYSE American BBO/Trades, NYSE Chicago BBO/Trades, IEX TOPS, MIAX PEARL Equities Top of Market Feed, and MEMX MEMOIR Top.

[8] For example, The Nasdaq Stock Market LLC (''Nasdaq'') offers ''Nasdaq Basic'' which is a real-time market data product that offers best bid and offer and last sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center and trades reported to the FINRA/Nasdaq Trade Reporting Facility (''Nasdaq TRF''). *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(a). The type of information contained on the BYX Top Feed is substantially similar to that offered through Nasdaq Basic, except that the Exchange disseminates information about quotes and trades on BYX, whereas Nasdaq Basic provides information about quotes and trades on Nasdaq and the Nasdaq TRF. Other national securities with competing top-of-book products also

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data is therefore widely available today from a number of different sources.

Fees for External Distribution of BYX Top

The Exchange first proposes to decrease the external distribution fee applicable to BYX Top,[9] which is an uncompressed data feed that offers top-of-book quotations and execution information based on equity orders entered into the System.[10] Currently, the Exchange charges an external distribution fee (*i.e.,* distribution outside the distributor's own firm) of $1,000 per month to External Distributors [11] of BYX Top. The Exchange also charges a professional user fee of $1.00 per month, a non-professional user fee of $0.025 per month, an enterprise fee of $10,000 per month, and a digital media enterprise fee of $2,500 per month that is applicable to External Distributors. The external distribution fees have been in place, without change, since June 1, 2016.[12] Nonetheless, the Exchange proposes to decrease the monthly charge for external distribution of BYX Top from $1,000 to $250 per month (*i.e.,* a decrease of $750 per month),[13] which would continue to be cheaper than similar products offered by certain of the Exchange's competitors.[14] The Exchange proposes no changes to the professional, non-professional, enterprise and digital media enterprise fees associated with external distribution.

Cboe One Premium and BYX Top Depth New External Distributor Credit

The Exchange next proposes to adopt a New External Distributor Credit applicable to Cboe One Premium and extend the New External Distributor Credit applicable to BYX Summary Depth Feed from one (1) month to three (3) months. By way of background, Cboe One Premium is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer (''BBO'') of all displayed orders for securities traded on BYX and its affiliated exchanges (*i.e.,* EDGX, Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe BZX Exchange, Inc. (''BZX'')) and contains optional functionality which enables recipients to receive aggregated two-sided quotations from BYX and its affiliated equities exchanges for up to five (5) price levels.[15] Currently, the Exchange charges an external distribution fee of $12,500 per month to External Distributors of Cboe One Premium. The Exchange now proposes to adopt a New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Summary[sic] Feed. The Exchange believes the proposal will incentivize External Distributors to enlist new users to receive Cboe One Premium. To ensure consistency across the Cboe Equity Exchanges, BZX, EDGX, and EDGA will be filing companion proposals to reflect this proposal in their respective fee schedules.

The Exchange notes that it offers similar credits for other market data products. For example, the Exchange currently offers a one (1) month New External Distributor Credit applicable to Cboe One Summary,[16] which is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on BYX and its affiliated equities exchanges and also contains individual last sale information for the BYX and its affiliated equities exchanges.[17] It also offers a New External Distributor Credit of one (1) month for subscribers of BYX Summary Depth, which is a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels. BYX Summary Depth also contains the individual last sale information, Market Status, Trading Status, and Trade Break messages.[18] The External Distribution fees for Cboe One Premium is equivalent to the aggregate BYX Summary Depth, BZX Summary Depth, EDGX Summary Depth, and EDGA Summary Depth External Distribution fees. In order to alleviate any competitive issues that may arise with a vendor seeking to offer a product similar to the Cboe One Premium Feed based on the underlying data feeds, the Exchange proposes to also extend the current New External Distributor Credit for BYX Summary Depth from one (1) month to three (3) months and the Exchange's affiliates EDGX, BZX and EDGA are also submitting similar proposals to increase the length of their respective Summary Depth New External Distributor Credits from one (1) month to three (3) months. The respective proposals to extend these credits to three months ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to BYX, EDGA, EDGX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[19] in general, and furthers the objectives of Section 6(b)(4),[20] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.[21] Finally, the proposed rule change is also consistent with Rule 603 of Regulation NMS,[22] which provides

offer substantially similar types of information through those top-of-book products.

[9] *See* Exchange Rule 11.22(d).

[10] *See* Exchange Rule 1.5(aa).

[11] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

[12] *See* Securities Exchange Act Release No. 77886 (May 23, 2016) 81 FR 33722 (May 27, 2016) (SR–BatsBYX–2016–08).

[13] The Exchange notes that the fee for Cboe One Summary is equivalent to the aggregate BYX Top, BZX, Top, EDGX Top, and EDGA Top fees. The Exchange is not proposing to change the current Cboe One Summary external distribution fee. Instead, the Cboe EDGX Exchange, Inc. (''EDGX'') has simultaneously with this proposal proposed to increase its fee for EDGX Top by $750 in order to ensure the proposed fee will continue to not cause the combined cost of subscribing to BYX, EDGA, EDGX, and BZX individual Top and Last Sale feeds to be greater than those currently charged to subscribe to the Cboe One Summary fee.

[14] *See* infra notes 28, 29, 31, and 32.

[15] The Cboe Aggregated Market (''Cboe One'') Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges (*i.e.,* EDGX, EDGA, and BZX). *See* Exchange Rule 11.22(i). The Cboe One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Cboe Equities Exchanges for up to five (5) price levels (''Cboe One Premium Feed''). The Cboe One Premium external distribution fee is equal to the aggregate BYX Summary Depth, BYX Summary Depth, EDGA Summary Depth, and BZX Summary Depth external distribution fees.

[16] *See* Exchange Rule 11.22(i).

[17] The Exchange notes that when it first adopted the New External Distributor Credit for Cboe One Summary, it similarly applied for a new External Distributor's first three (3) months. *See* Securities Exchange Act Release No. 74284 (February 18, 2015), 80 FR 9792 (February 24, 2015) (SR–BYX–2015–09).

[18] *See* Exchange Rule 11.22(k)

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(4).

[21] 15 U.S.C. 78k–1.

[22] *See* 17 CFR 242.603.

that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

The Exchange operates in a highly competitive environment. Indeed, there are now sixteen registered U.S equities exchanges, and with the exception of Long-Term Stock Exchange, Inc. (''LTSE''), which has determined to not offer any proprietary market data feeds, each of these exchanges offer associated market data products to their customers, either with or without a fee. It is in this robust and competitive market in which the Exchange is proposing to increase its fees, while still providing its data at a significantly lower price than competing products offered by other national securities exchanges with similar data quality.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Further, with respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data: ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' [23] The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [24] As discussed in this filing, significant competitive forces constrain the ability of the Exchange to charge supra-competitive fees.

BYX Top

i. The BYX Top Feed Is an Optional Market Data Product, and the Exchange Is Constrained in its Pricing by Significant Competitive Forces

Subscribing to BYX Top is entirely optional. The Exchange is not required to make BYX Top available to any customers, nor is any customer required to purchase BYX Top.[25] A customer's decision as to whether to purchase BYX Top is therefore entirely discretionary and is based on that firms individual business needs. Generally, firms that choose to subscribe to BYX Top do so because they believe that it is a cost-effective source for top-of-book data that provides valuable information about the market for national market system (''NMS'') stocks traded on the Exchange, where a consolidated display covering all U.S. equities exchanges is not required. Such firms are able to determine for themselves whether BYX Top helps them to achieve their business goals, and if so, whether or not it is attractively priced compared to other similar top-of-book products offered by competing exchanges. Indeed, if BYX Top does not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use BYX Top. And, as discussed later in this filing, any External Distributor of top-of-book data that does not wish to purchase BYX Top, due to the price of that data or for any other reason, can choose to substitute similar information from other exchanges. Although the Exchange is not required to make any data, including top-of-book data, available through its proprietary market data platform, the Exchange believes that making such data available increases investor choice, and contributes to a fair and competitive market. Specifically, making such data publicly available through proprietary data feeds allows investors to choose alternative, potentially less costly, market data based on their business needs. For example, a broker or fintech firm may choose to purchase BYX Top, or a similar product from another exchange, in order to perform investment analysis, or to provide general information about the market for U.S. equity securities, respectively. In either case the choice to purchase BYX Top would be based on the firm's determination of the value of the data offered by their chosen product compared to the cost of acquiring this data instead of receiving similar data from other sources. BYX Top serves as a valuable reference for investors that do not require a consolidated display. Making alternative products available to market participants ultimately ensures competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. Further, in the event that a market data customer views one exchange's top-of-book data product and/or fees as more or less attractive than a competitor's offerings they can and often do switch between competing products. As discussed, similar top-of-book information is available from a number of competing U.S. equities exchanges.[26] This includes a number of large established exchanges that charge for access to such top-of-book data, as well as certain smaller or new exchange entrants that provide similar data without charge, in many cases as a way of attracting customers to their exchange while they seek to grow market share. In this way, BYX Top and other top-of-book products offered by a number of U.S. equities exchanges, are all substitutes. The availability of these substitute products constrains the Exchange's ability to charge supra-competitive prices as market participants can easily obtain similar data from one of the Exchange's many competitors. In fact, the impact of competition on the market in which BYX Top is offered to market participants and investors is showcased by Exchange affiliates' other recent fee changes related to this product, which involved the reduction of fees to facilitate the Exchange affiliates' ability to compete for customers.

Distributors can discontinue use of BYX Top at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Other External Distributors are free to similarly cancel their subscriptions in favor of a competitor offering, or cheaper or free data offered by the Exchange's affiliated U.S. equities exchanges, if they believe that the fees are too high given their particular use case for obtaining the data that the Exchange provides over BYX Top. The Exchange offers all of its proprietary market data products pursuant to a month-to-month contract that allows subscribers to choose to terminate their subscription at any time. As a result, there are no contractual or other legal

[23] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted* in 1975 U.S.C.C.A.N. 323).

[24] *Id.* at 535.

[25] The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. *See* In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34- 72182; AP–3–15350; AP–3–15351 (May16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

[26] Although the Exchange does not have access to the customer lists for other competing products, it understands based on conversations with subscribers to BYX Top that they typically view exchange top-of-book products as substitutes and do not generally look to purchase such data from more than one national securities exchange.

impediments for firms that wish to cancel their subscription to the Exchange's market data products, including BYX Top. In addition, the Exchange notes that a majority of External Distributors of BYX Top either receive this data through a market data vendor, as opposed to directly from the Exchange, or is a market data vendor itself. Thus, firms can seamlessly switch to any other competitor product offered by their chosen vendor without incurring additional switching costs, such as the cost of establishing connectivity to another exchange to receive its market data.[27]

In setting the proposed fees for BYX Top, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. Indeed, the Exchange is not in a position to charge unreasonable fees for its top-of-book data as there are a number of competing products in the market, including products that are currently offered free of charge by certain other exchanges that have determined not to charge for their market data. The existence of alternatives to BYX Top ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can freely elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

ii. The Proposed Fees Are Reasonable Given the Value of the Data Provided to Customers, and When Compared to Competing Market Data Products

The proposed fees are also reasonable they would represent a decreased fee for top-of-book data that has proven valuable for investors. BYX Top is a competitively-priced alternative to top-of-book data disseminated by other national securities exchanges. It is purchased by a wide variety of market participants and vendors, including data platforms, websites, fintech firms, buy-side investors, retail brokers, regional banks, and securities firms inside and outside of the U.S. that desire low cost, high quality, real-time U.S. equity market data. By providing lower cost access to U.S. equity market data, BYX Top benefits a wide range of investors that participate in the national market system. As discussed, the decision to purchase a particular market data product from a particular exchange is largely based on two factors: (1) The quality of the data, and (2) the price charged for access to that data. The Exchange believes that BYX Top is competitive on both of these factors.

First, BYX Top would remain competitively priced compared to similar products offered by other comparable U.S. equities exchanges. Although BYX Top is not offered free of charge like certain other competitor offerings, particularly those offered by newer U.S. equities exchanges that are seeking to grow market share, it is made available at a price that is less than the prices charged by the Exchange's main competitors—*i.e.,* those with comparable market shares and data quality. Notably, BYX Top would remain significantly cheaper than similar products offered by New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''Arca'') and Nasdaq in terms of the fees charged for external distribution. For example, NYSE charges a total of $4,000 per month for access and redistribution of their equivalent products, *i.e.,* $1,500 per month for applicable top-of-book quotation information,[28] and an additional $1,500 per month for transaction information,[29] both of which are included in BYX Top for a single fee.[30] In addition, a $1,000 per month redistribution fee is applied. Arca, which has a similar pricing model to NYSE, charges a rate of $2,250 per month for access and redistribution of its equivalent products, separated into a $750 per month charge for top-of-book quotation information, an additional $750 per month charge for transaction information, and $750 per month for redistribution.[31] Finally, Nasdaq charges its External Distributors a fee of $2,000 per month for Nasdaq Basic, which includes both top-of-book quotation information and transaction information for the same fee, a $350 per month Data Consolidation fee, and a $100 per month Monthly Administrative Fee.[32] The external distribution charges associated with obtaining comparable U.S. equities market data from NYSE, Arca and Nasdaq runs significantly more than the proposed fee to be charged by the Exchange, meaning that the Exchange would continue to be offering its data at a price that is attractive compared to the prices charged by its competitors.

iii. The Proposed Fees Are Equitable and Not Unfairly Discriminatory as External Distributors Will Be Subject to Uniform Pricing Based on Their Usage of the Data and Differences Between the Fees Charged for Internal and External Distribution Are Appropriate

The Exchange believes the proposed fees for external distribution of BYX Top will continue to be allocated fairly and equitably among subscribers, and are not unfairly discriminatory, as the proposed fees will apply equally to all data recipients that choose to subscribe to BYX Top and distribute that data to external subscribers. As proposed, all External Distributors of BYX Top will continue to be subject to the same external distribution fee, regardless of the type of business that they operate, or the use they plan to make of the data feed. Thus, all External Distributors would have access to BYX Top on the same equitable and non-discriminatory terms.

The Exchange believes that it is also fair and equitable, and not unfairly discriminatory to charge different fees for internal and external distribution of the BYX Top. As the proposed distribution fee charged to External Distributors is higher[sic] than the existing distribution fee charged to Internal Distributors,[33] the proposal is designed to incentivize External Distributors to subscribe to BYX Top. Nonetheless, External Distributors are subject to professional user fees, non-professional user fees, an enterprise fee, and a digital media enterprise fee to which Internal Distributors are not subject.

New External Distributor Fee Credit

The Exchange also believes that adopting a New External Distributor Credit for Cboe One Premium is equitable and reasonable. As discussed above, a similar New External Distributor Fee Credit was initially adopted at the time the Exchange began to offer the Cboe One Summary to subscribers. It was intended to incentivize new Distributors to enlist Users to subscribe to Cboe One Summary in an effort to broaden the product's distribution. Now the Exchange proposes to adopt a similar

[27] Market data vendors typically establish connectivity to a number of national securities exchanges to be able to offer their market data to customers.

[28] *See* NYSE PDP Market Data Pricing, Section 1.3, NYSE BBO.

[29] *See* NYSE PDP Market Data Pricing, Section 1.4, NYSE Trades.

[30] *Supra* note 3.

[31] *See* NYSE PDP Market Data Pricing, Section 3.3, NYSE Arca BBO; NYSE PDP Market Data Pricing, Section 3.4, NYSE Arca Trades.

[32] *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(c)(1). In addition, Nasdaq also charges distributors a $100 monthly administrative fee. *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 135.

[33] An Internal Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.

credit for Cboe One Premium subscribers for their first three (3) months to similarly incentivize new Distributors to enlist Users to subscribe to Cboe One Premium in an effort to broaden the product's distribution. While this incentive is not available to Internal Distributors of Cboe One Premium, the Exchange believes it is appropriate as Internal Distributors have no subscribers outside of their own firm. The Exchange believes extending the New External Distributor Credit for BYX Summary Depth from one (1) month to three (3) months is also equitable and reasonable, as it (along with simultaneous corresponding proposals by the Exchange's affiliates) ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to BYX, EDGA, EDGX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by competition among exchanges that offer similar data products to their customers. Top-of-book data and depth-of-book data is broadly disseminated by competing U.S. equities exchanges. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges without charge. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees and credit would apply to all External Distributors of BYX Top and Cboe One Premium, respectively, on an equal and non-discriminatory basis. The difference in fees for internal and external distribution of BYX Top are reasonably designed to incentivize External Distributors to subscribe to BYX To. Further, the credit applicable to only External Distributors is appropriate as it incentivizes such External Distributors to enlist subscribers, whereas Internal Distributors have no subscribers outside their firm. The Exchange therefore believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In setting the proposed fees, the Exchange is constrained by the availability of numerous substitute products offered by other national securities exchanges. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [34] and paragraph (f) of Rule 19b–4 [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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 17 CFR 240.19b–4(f).

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–CboeBYX–2022–001 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–CboeBYX–2022–001. 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–CboeBYX–2022–001 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

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Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Applicable to Various Market Data Products

January 18, 2022.

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 January 4, 2022, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fees applicable to various market data products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Market Data section applicable to its equities trading platform (''EDGX Equities''). Particularly, the Exchange proposes to (i) increase the External Distribution fee applicable to EDGX Top, (ii) modify the External Subscriber fees applicable to EDGX Top Derived Data API Service, (iii) adopt a New External Distributor Credit applicable to Cboe One Premium, (iv) extend the New External Distributor Credit applicable to EDGX Summary Depth Feed from one (1) month to three (3) months, and (v) eliminate the waiver of EDGX Top and EDGX Last Sale External Distribution fees for External Distributors of EDGX Depth.

Market Background

The Commission has repeatedly expressed its 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.''[3] As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.''[4]

Equity trading is currently dispersed across sixteen exchanges, more than 50 alternative trading systems,[5] and numerous broker-dealer internalizers and wholesalers, all competing fiercely for order flow. Based on publicly-available information, no single U.S. equities exchange has more than 17% market share.[6] In turn, the market for top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. In fact, there are twelve competing products offered by other national securities exchanges today,[7] not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. equities exchanges also offers similar top-of-book data. Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the EDGX Top Feed.[8] Exchange top-of-book data is therefore widely available today from a number of different sources.

Fees for External Distribution of EDGX Top

The Exchange first proposes to increase the external distribution fee applicable to EDGX Top,[9] which is an uncompressed data feed that offers top-of-book quotations and execution information based on equity orders entered into the System.[10] Currently, the Exchange charges an external distribution fee (*i.e.,* distribution outside the distributor's own firm) of $1,500 per month to External Distributors[11] of EDGX Top. The

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS Adopting Release'').

[4] *See* Securities Exchange Act Release No. 84875, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[5] See FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[6] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 10, 2021) available at *http://markets.cboe.com/us/equities/market_share/.*

[7] Competing top-of-book products include, Nasdaq Basic, BX Basic, PSX Basic, NYSE BQT, NYSE BBO/Trades, NYSE Arca BQT, NYSE Arca BBO/Trades, NYSE American BBO/Trades, NYSE Chicago BBO/Trades, IEX TOPS, MIAX PEARL Equities Top of Market Feed, and MEMX MEMOIR Top.

[8] For example, The Nasdaq Stock Market LLC (''Nasdaq'') offers ''Nasdaq Basic'' which is a real-time market data product that offers best bid and offer and last sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center and trades reported to the FINRA/Nasdaq Trade Reporting Facility (''Nasdaq TRF''). *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(a). The type of information contained on the EDGX Top Feed is substantially similar to that offered through Nasdaq Basic, except that the Exchange disseminates information about quotes and trades on EDGX, whereas Nasdaq Basic provides information about quotes and trades on Nasdaq and the Nasdaq TRF. Other national securities with competing top-of-book products also offer substantially similar types of information through those top-of-book products.

[9] *See* Exchange Rule 13.8(c).

[10] *See* Exchange Rule 1.5(cc).

[11] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

Exchange also charges a professional user fee of $4.00 per month, a non-professional user fee of $0.10 per month, an enterprise fee of $15,000 per month, and a digital media enterprise fee of $2,500 per month that is applicable to External Distributors. The external distribution fees have been in place, without change, since June 1, 2016.[12] In the time since, the Exchange has made a number of significant enhancements to its platform, including, among other things, trading hours beginning at 4 a.m. Eastern time (which has required additional operational support) and the introduction of Retail Priority Orders.[13] These enhancements have resulted in improved trading opportunities for investors and, consequently, more valuable market data. As such, the Exchange proposes to increase the monthly charge for external distribution of EDGX Top from $1,500 to $2,250 per month (*i.e.,* an increase of $750 per month),[14] which would continue to be cheaper than similar products offered by the certain of the Exchange's competitors.[15] The Exchange proposes no changes to the professional, non-professional, enterprise and digital media enterprise fees associated with external distribution. Further, various incentive programs that the Exchange has adopted to facilitate the provision of lower-cost market data to retail and other investors would continue to apply.[16] As a result, the Exchange believes that the proposed fee changes would allow it to be appropriately compensated for the value of its market data, particularly from professional financial services firms that use that data for external distribution, while simultaneously ensuring that its data would continue to be available to a wide range of investors and market participants at a cost that facilitates widespread availability of such data.

EDGX Top Derived Data API Service External Subscriber Fees

The Exchange next proposes to modify fees charged to Distributors that distribute EDGX Top Derived Data through an Application Programming Interface (''API'')—*i.e.,* the Derived Data API Service.[17] By way of background, ''Derived Data'' is pricing data or other data that (i) is created in whole or in part from Exchange Data, (ii) is not an index or financial product, and (iii) cannot be readily reverse-engineered to recreate Exchange Data or used to create other data that is a reasonable facsimile or substitute for Exchange Data. The Derived Data API Service program offers discounted fees for Distributors that make Derived Data available through an API, thereby allowing Distributors to benefit from reduced fees when distributing Derived Data to subscribers that establish their own platforms (rather than relying on a hosted display solution).

As discussed above, the Exchange currently charges a fee of $1,500 per month for external distribution of EDGX Top (which is proposed to be increased to $2,250). Instead of being assessed the flat regular fee for external distribution, Distributors that distribute Derived Data through an API are charged a tiered External Subscriber Fee based on the number of API Service Platforms (*i.e.,* ''External Subscribers'') that receive Derived Data from the Distributor through a Derived Data API Service. Currently, Distributors under this program continue to be charged a fee of $1,500 per month (the fee normally assessed to External Distributors for EDGX Top) for each External Subscriber if the Distributor makes Derived Data available to 1–5 External Subscribers. Distributors that make Derived Data available to additional External Subscribers however benefit from discounted pricing based on the number of subscribers. Specifically, the external distribution fee is lowered to $1,250 per month for each External Subscriber if the Distributor makes Derived Data available to 6–20 External Subscribers, and further lowered to $1,000 per month for each External Subscriber if the Distributor makes Derived Data available to 21 or more External Subscribers. In light of the proposed increase of the EDGX Top external distribution fee to $2,250, the Exchange proposes to make corresponding changes to the distribution fees for Distributors of Derived Data through a Derived API Service. Particularly, the Exchange proposes to modify the External Subscriber fees as follows:

Number of external subscribers	Current fee	Proposed fee
1–5	$1,500	$2,250
6–20	1,250	1,800
21 and above	1,000	1,500

The Exchange notes that the External Subscriber Fee is non-progressive and based on the number of External Subscribers that receive Derived Data from the Distributor. To illustrate how the discount is applied, the Exchange has codified an example in the Fees Schedule under the notes section of the Derived Data Platform Service section, which it now proposes to update in connection with the proposed changes to the External Subscriber fees. Currently, the example provides that a Distributor providing Derived Data based on EDGX Top to six (6) External Subscribers that are API Service Platforms would be charged a monthly fee of $7,500 (*i.e.,* 6 External Subscribers × $1,250 each). The Exchange proposes to update the example to provide that Distributor providing Derived Data based on EDGX Top to six (6) External Subscribers that are API Service Platforms would be charged a monthly fee of $10,800 (*i.e.,* 6 External Subscribers × $1,800 each).

Cboe One Premium and EDGX Top Depth New External Distributor Credit

The Exchange next proposes to adopt a New External Distributor Credit applicable to Cboe One Premium and extend the New External Distributor Credit applicable to EDGX Summary Depth Feed from one (1) month to three (3) months. By way of background, Cboe One Premium is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer (''BBO'') of all displayed orders for securities traded on EDGX and its affiliated exchanges (*i.e.,* BYX, Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe BZX Exchange, Inc. (''EDGX'')) and contains optional functionality which enables recipients to receive aggregated two-sided quotations from EDGX and its affiliated equities exchanges for up to five (5)

[12] *See* Securities Exchange Act Release No. 77888 (May 24, 2016) 81 FR 34384 (May 31, 2016) (SR–BatsEDGX–2016–18).

[13] *See* Exchange Rule 11.9.01.

[14] The Exchange notes that the fee for Cboe One Summary is equivalent to the aggregate EDGX Top, BZX, Top, BYX Top, and EDGA Top fees. The Exchange is not proposing to change the current Cboe One Summary external distribution fee. Instead, the Cboe BYX Exchange, Inc. (''BYX'') has simultaneously with this proposal proposed to decrease its fee for BYX Top by $750 in order to ensure the proposed fee will continue to not cause the combined cost of subscribing to EDGX, EDGA, BYX, and BZX individual Top and Last Sale feeds to be greater than those currently charged to subscribe to the Cboe One Summary fee.

[15] *See* infra notes 38, 39, 41, and 42.

[16] *See e.g.,* EDGX Fees Schedule, Small Retail Broker Distribution Program, which provides for a reduced EDGX Top Distribution Fee for small broker-dealers that operate a retail business and Retail Membership Program, which provides for discounted membership fees, logical and physical port fees, and market data fees and provides for an opportunity for Members to receive an enhanced rebate for retail volume.

[17] An ''API Service'' is a type of data feed distribution in which a Distributor delivers an API or similar distribution mechanism to a third-party entity for use within one or more platforms. The service allows Distributors to provide Derived Data to a third-party entity for use within one or more downstream platforms that are operated and maintained by the third-party entity. The Distributor maintains control of the entitlements, but does not maintain technical control of the usage or the display.

price levels.[18] Currently, the Exchange charges an external distribution fee of $12,500 per month to External Distributors [19] of Cboe One Premium. The Exchange now proposes to adopt a New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Summary[sic] Feed. The Exchange believes the proposal will incentivize External Distributors to enlist new users to receive Cboe One Premium. To ensure consistency across the Cboe Equity Exchanges, BZX, BYX, and EDGA will be filing companion proposals to reflect this proposal in their respective fee schedules.

The Exchange notes that it offers similar credits for other market data products. For example, the Exchange currently offers a one (1) month New External Distributor Credit applicable to Cboe One Summary,[20] which is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on EDGX and its affiliated equities exchanges and also contains individual last sale information for the EDGX and its affiliated equities exchanges.[21] It also offers a New External Distributor Credit of one (1) month for subscribers of EDGX Summary Depth, which is a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels. EDGX Summary Depth also contains the individual last sale information, Market Status, Trading Status, and Trade Break messages.[22] The External Distribution fees for Cboe One Premium is equivalent to the aggregate EDGX Summary Depth, BZX Summary Depth, BYX Summary Depth, and EDGA Summary Depth External Distribution fees. In order to alleviate any competitive issues that may arise with a vendor seeking to offer a product similar to the Cboe One Premium Feed based on the underlying data feeds, the Exchange proposes to also extend the current New External Distributor Credit for EDGX Summary Depth from one (1) month to three (3) months and the Exchange's affiliates BYX, BZX and EDGA are also submitting similar proposals to increase the length of their respective Summary Depth New External Distributor Credits from one (1) month to three (3) months. The respective proposals to extend these credits to three months ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to EDGX, EDGA, BYX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

Waiver of External Distribution Fees for EDGX Top and EDGX Last Sale

The Exchange currently provides External Distributors of EDGX Depth,[23] upon request and at no additional External Distribution Fee, access to the EDGX Top or EDGX Last Sale [24] feeds for External Distribution. This waiver was intended to encourage the distribution of the EDGX Top and Last Sale data products. The waiver has been in place, without change, since June 1, 2016.[25] The Exchange believes such waiver has been in place for ample time to allow External Distributors to grow their respective subscriber bases and no longer wishes to provide this waiver of the External Distribution fees for EDGX Top and EDGX Last Sale feeds. Accordingly, the Exchange proposes to strike this language from the fees schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[26] in general, and furthers the objectives of Section 6(b)(4),[27] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.[28] Finally, the proposed rule change is also consistent with Rule 603 of Regulation NMS,[29] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

The Exchange operates in a highly competitive environment. Indeed, there are now sixteen registered U.S equities exchanges, and with the exception of Long-Term Stock Exchange, Inc. (''LTSE''), which has determined to not offer any proprietary market data feeds, each of these exchanges offer associated market data products to their customers, either with or without a fee. It is in this robust and competitive market in which the Exchange is proposing to increase its fees, while still providing its data at a significantly lower price than competing products offered by other national securities exchanges with similar data quality.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Further, with respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data: ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and

[18] The Cboe Aggregated Market (''Cboe One'') Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges (*i.e.,* BYX, Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe BZX Exchange, Inc. (''EDGX'')[sic]). *See* Exchange Rule 13.8(b). The Cboe One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Cboe Equities Exchanges for up to five (5) price levels (''Cboe One Premium Feed''). *See* Exchange Rule 13.8(b)(i). The Cboe One Premium external distribution fee is equal to the aggregate EDGX Summary Depth, BYX Summary Depth, EDGA Summary Depth, and BZX Summary Depth external distribution fees.

[19] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

[20] *See* Exchange Rule 13.8(b).

[21] The Exchange notes that when it first adopted the New External Distributor Credit for Cboe One Summary, it similarly applied for a new External Distributor's first three (3) months. *See* Securities Exchange Act Release No. 74282 (February 17, 2015), 80 FR 9487 (February 23, 2015) (SR–EDGX–2015–09).

[22] *See* Exchange Rule 13.8(f).

[23] EDGX Depth is a data feed that contains all displayed orders for listed securities trading on the Exchange, order executions, order cancellations, order modifications, order identification numbers, and administrative messages. *See* Exchange Rule 13.8(a).

[24] EDGX Last Sale is an uncompressed data feed that offers only execution information based on orders entered into the System. *See* Exchange Rule 13.8(d).

[25] *See* Securities Exchange Act Release No. 77888 (May 24, 2016) 81 FR 34384 (May 31, 2016) (SR–BatsEDGX–2016–18).

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78f(b)(4).

[28] 15 U.S.C. 78k–1.

[29] *See* 17 CFR 242.603.

that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' [30] The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [31] As discussed in this filing, significant competitive forces constrain the ability of the Exchange to charge supra-competitive fees.

EDGX Top and EDGX Top Derived Data API Service

i. The EDGX Top Feed Is an Optional Market Data Product, and the Exchange Is Constrained in Its Pricing by Significant Competitive Forces

Subscribing to EDGX Top is entirely optional. The Exchange is not required to make EDGX Top available to any customers, nor is any customer required to purchase EDGX Top.[32] A customer's decision as to whether to purchase EDGX Top is therefore entirely discretionary and is based on that firms individual business needs. Generally, firms that choose to subscribe to EDGX Top do so because they believe that it is a cost-effective source for top-of-book data that provides valuable information about the market for national market system (''NMS'') stocks traded on the Exchange, where a consolidated display covering all U.S. equities exchanges is not required. Such firms are able to determine for themselves whether EDGX Top helps them to achieve their business goals, and if so, whether or not it is attractively priced compared to other similar top-of-book products offered by competing exchanges. Indeed, if EDGX Top does not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use EDGX Top. In fact, comparing the number of External Distributors that currently subscribe to EDGX Top, based on data compiled by the Exchange as of November 2021, to the total number of External Distributors that subscribe to core data offered by the CTA and UTP SIPs, as published on plan websites for Q1 2021,[33] less than 7.37% of External Distributors that purchase U.S. equities data choose to subscribe to EDGX Top.[34] The EDGX Top Feed therefore represents an insignificant proportion of the market for such market data, and significantly more External Distributors choose not to purchase this product than those that do. Given the insignificant percentage of External Distributors that consume EDGX Top, it is clear that such firms can and do exercise their right to choose to purchase, or not purchase, this particular market data product. And, as discussed later in this filing, any External Distributor of top-of-book data that does not wish to purchase EDGX Top, due to the price of that data or for any other reason, can choose to substitute similar information from other exchanges. Although the Exchange is not required to make any data, including top-of-book data, available through its proprietary market data platform, the Exchange believes that making such data available increases investor choice, and contributes to a fair and competitive market. Specifically, making such data publicly available through proprietary data feeds allows investors to choose alternative, potentially less costly, market data based on their business needs. For example, a broker or fintech firm may choose to purchase EDGX Top, or a similar product from another exchange, in order to perform investment analysis, or to provide general information about the market for U.S. equity securities, respectively. In either case the choice to purchase EDGX Top would be based on the firm's determination of the value of the data offered by their chosen product compared to the cost of acquiring this data instead of receiving similar data from other sources. EDGX Top serves as a valuable reference for investors that do not require a consolidated display. Making alternative products available to market participants ultimately ensures competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. Further, in the event that a market data customer views one exchange's top-of-book data product and/or fees as more or less attractive than a competitor's offerings they can and often do switch between competing products. As discussed, similar top-of-book information is available from a number of competing U.S. equities exchanges.[35] This includes a number of large established exchanges that charge for access to such top-of-book data, as well as certain smaller or new exchange entrants that provide similar data without charge, in many cases as a way of attracting customers to their exchange while they seek to grow market share. In this way, EDGX Top and other top-of-book products offered by a number of U.S. equities exchanges, are all substitutes. The availability of these substitute products constrains the Exchange's ability to charge supra-competitive prices as market participants can easily obtain similar data from one of the Exchange's many competitors. In fact, the impact of competition on the market in which EDGX Top is offered to market participants and investors is showcased by Exchange affiliates' other recent fee changes related to this product, which involved the reduction of fees to facilitate the Exchange affiliates' ability to compete for customers.

Distributors can discontinue use of EDGX Top at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Other External Distributors are free to similarly cancel their subscriptions in favor of a competitor offering, or cheaper or free data offered by the Exchange's affiliated U.S. equities exchanges, if they believe that the fees are too high given their particular use case for obtaining the data that the Exchange provides over EDGX Top. The Exchange offers all of its proprietary market data products pursuant to a month-to-month contract that allows subscribers to choose to terminate their subscription at any time. As a result, there are no contractual or other legal impediments for firms that wish to cancel their subscription to the Exchange's market data products,

[30] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted* in 1975 U.S.C.C.A.N. 323).

[31] *Id.* at 535.

[32] The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. *See* In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

[33] See CTA Quarterly Population Metrics (Q1 2021), *available at https://www.ctaplan.com/publicdocs/ctaplan/CTAPLAN_Population_Metrics_3Q2021.pdf*; UTP Quarterly Population Metrics (Q1 2021), *available at https://www.utpplan.com/DOC/UTP_2021_Q1_Stats_with_Processor_Stats.pdf.*

[34] This statistic reflects the number of External Distributors that purchase EDGX Top divided by the number of External Distributors that purchase consolidated market data from the SIPs, as reflected in publicly available information. *Id.* The Exchange does not have similar information about the number of External Distributors that purchase top-of-book data from other exchanges as competing exchanges do not typically make this information publicly available due to the commercially sensitive nature of such information.

[35] Although the Exchange does not have access to the customer lists for other competing products, it understands based on conversations with subscribers to EDGX Top that they typically view exchange top-of-book products as substitutes and do not generally look to purchase such data from more than one national securities exchange.

including EDGX Top. In addition, the Exchange notes that a majority of External Distributors of EDGX Top either receive this data through a market data vendor, as opposed to directly from the Exchange, or is a market data vendor itself. Thus, firms can seamlessly switch to any other competitor product offered by their chosen vendor without incurring additional switching costs, such as the cost of establishing connectivity to another exchange to receive its market data.[36]

In setting the proposed fees for EDGX Top, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. Indeed, the Exchange is not in a position to charge unreasonable fees for its top-of-book data as there are a number of competing products in the market, including products that are currently offered free of charge by certain other exchanges that have determined not to charge for their market data. The existence of alternatives to EDGX Top ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can freely elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

Similarly, in an effort to widen distribution to market participants that use equities market data to compute pricing for certain derivatives instruments, national securities exchanges, including for example the Exchange and The Nasdaq Stock Market LLC (''Nasdaq''),[37] offer discounted pricing for Derived Data that is created using their top of book products. Derived Data is largely used to create derivative instruments, such as contracts for difference, rather than to trade equity securities, and is often purchased by market data customers outside of the U.S. where such derivative instruments are more commonly offered. As a result, customers that purchase top of book data to create Derived Data do not need a consolidated quotation, and typically only purchase top of book data to create Derived Data from one source. If a competing exchange were to charge less for a similar product than the Exchange proposes to charge under the EDGX Top Derived Data API Service fee structure, prospective subscribers may choose not subscribe to, or cease subscribing to, the EDGX Top Derived Data API Service. The existence of alternatives ensures that the Exchange cannot set unreasonable or unfairly discriminatory fees, as subscribers are free to elect such alternatives.

ii. The Proposed Fees Are Reasonable Given the Value of the Data Provided to Customers, and When Compared to Competing Market Data Products

The proposed fees are also reasonable as even with the proposed fee increase they would continue to represent a relatively modest fee for top-of-book data that has proven valuable for investors. EDGX Top is a competitively-priced alternative to top-of-book data disseminated by other national securities exchanges. It is purchased by a wide variety of market participants and vendors, including data platforms, websites, fintech firms, buy-side investors, retail brokers, regional banks, and securities firms inside and outside of the U.S. that desire low cost, high quality, real-time U.S. equity market data. By providing lower cost access to U.S. equity market data, EDGX Top benefits a wide range of investors that participate in the national market system. As discussed, the decision to purchase a particular market data product from a particular exchange is largely based on two factors: (1) The quality of the data, and (2) the price charged for access to that data. The Exchange believes that EDGX Top is competitive on both of these factors.

First, EDGX Top would remain competitively priced compared to similar products offered by other comparable U.S. equities exchanges. Although EDGX Top is not offered free of charge like certain other competitor offerings, particularly those offered by newer U.S. equities exchanges that are seeking to grow market share, it is made available at a price that is less than the prices charged by the Exchange's main competitors—*i.e.,* those with comparable market shares and data quality. Notably, even with the proposed fee increase, EDGX Top would remain significantly cheaper than similar products offered by New York Stock Exchange LLC (''NYSE'') and Nasdaq in terms of the fees charged for external distribution. For example, NYSE charges a total of $4,000 per month for access and redistribution of their equivalent products, *i.e.,* $1,500 per month for applicable top-of-book quotation information,[38] and an additional $1,500 per month for transaction information,[39] both of which are included in EDGX Top for a single fee.[40] In addition, a $1,000 per month redistribution fee is applied. NYSE Arca, Inc. (''Arca''), which has a similar pricing model to NYSE, charges a rate of $2,250 per month for access and redistribution of its equivalent products, separated into a $750 per month charge for top-of-book quotation information, an additional $750 per month charge for transaction information, and $750 per month for redistribution.[41] Therefore, while Arca's fees are slightly less than the proposal, the proposed fees are in-line with those charged by Arca. Finally, Nasdaq charges its External Distributors a fee of $2,000 per month for Nasdaq Basic, which includes both top-of-book quotation information and transaction information for the same fee, a $350 per month Data Consolidation fee, and a $100 per month Monthly Administrative Fee.[42] The external distribution charges associated with obtaining comparable U.S. equities market data from NYSE and Nasdaq runs more than the proposed fee to be charged by the Exchange, meaning that the Exchange would continue to be offering its data at a price that is attractive compared to the prices charged by its competitors. The fee for EDGX Top Derived Data API Service would remain competitively priced compared to Nasdaq which also offers pricing discounts for Derived Data.[43]

Second, the proposed fees are reasonable given the value of the data provided in EDGX and used by data recipients in their profit-generating activities. EDGX Top provides top-of-book quotations and transactions executed on the Exchange, and provides a valuable window into the market for securities traded on a market that accounts for about 5% of U.S. equity market volume today.[44] As discussed, the Exchange offers EDGX Top in a competitive environment where firms may freely choose which market data

[36] Market data vendors typically establish connectivity to a number of national securities exchanges to be able to offer their market data to customers.

[37] *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(c)(1). In addition, Nasdaq also charges distributors a $100 monthly administrative fee. *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 135.

[38] *See* NYSE PDP Market Data Pricing, Section 1.3, NYSE BBO.

[39] *See* NYSE PDP Market Data Pricing, Section 1.4, NYSE Trades.

[40] *Supra* note 3.

[41] *See* NYSE PDP Market Data Pricing, Section 3.3, NYSE Arca BBO; NYSE PDP Market Data Pricing, Section 3.4, NYSE Arca Trades.

[42] *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(c)(1). In addition, Nasdaq also charges distributors a $100 monthly administrative fee. *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 135.

[43] See generally, the Nasdaq Basic fees at *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[44] *Supra* note 10.

products best suit their business needs. Invariably, firms that choose to purchase EDGX Top instead of receiving one of the many free products offered by other exchanges,[45] have decided that the value of EDGX Top is greater than that offered by those other products. The Exchange consistently ranks among the top U.S. equities exchanges in terms of various market quality measures, *e.g.,* NBBO quote quality and NBBO market share.[46] In turn, investors may choose to rely on the Exchange's market data products instead of other competitor offerings based on the value they provide in relation to any additional cost associated with obtaining that market data from the Exchange. For example, investors may wish to obtain market data from an exchange that has a higher time at the inside, as data obtained from an exchange that is quoting more often at the NBBO may better reflect the applicable market for securities it trades. Similarly, an exchange with greater overall market share will produce more transaction information that may be valuable to consumers of its data. Improvements in market quality will therefore directly impact the value of the market data that an exchange is able to offer to investors.

iii. The Proposed Fees Are Equitable and Not Unfairly Discriminatory as External Distributors Will Be Subject to Uniform Pricing Based on Their Usage of the Data and Differences Between the Fees Charged for Internal and External Distribution are Appropriate

The Exchange believes the proposed fees for external distribution of EDGX Top will continue to be allocated fairly and equitably among subscribers, and are not unfairly discriminatory, as the proposed fees will apply equally to all data recipients that choose to subscribe to EDGX Top and distribute that data to external subscribers. As proposed, all External Distributors of EDGX Top will continue to be subject to the same external distribution fee, regardless of the type of business that they operate, or the use they plan to make of the data feed. Thus, all External Distributors would have access to EDGX Top on the same equitable and non-discriminatory terms.

The Exchange believes that it is also fair and equitable, and not unfairly discriminatory to continue to charge different fees for internal and external distribution of the EDGX Top. As is common practice, the Exchange charges lower fees to distributors that use its market data products for internal distribution only than to distributors that redistribute that data externally to their customers. In the case of EDGX Top, External Distributors are subject to a higher distribution fee, and are also subject to professional user fees, non-professional user fees, an enterprise fee, and a digital media enterprise fee. The Exchange continues to believe that it is appropriate to distinguish between internal and External Distributors in setting fees for EDGX Top as External Distributors can redistribute the Exchange's market data to its clients for a fee, whereas Internal Distributors are not allowed to redistribute the data.

Finally, the Exchange believes the proposed changes to the distribution fees for Distributors of EDGX Top Derived Data through a Derived API Service is equitable and not unfairly discriminatory because the Exchange will apply the same fees to any similarly situated Distributors that elect to participate in the program based on the number of External Subscribers provided access to the Derived Data through an API Service. The Exchange believes that it is equitable and not unfairly discriminatory to continue to provide discounted rates to Distributors that provide access to at least six External Subscribers as the discounted rates are designed to incentivize firms to grow the number of External Subscribers that purchase Derived Data from the Exchange.

New External Distributor Fee Credit

The Exchange also believes that adopting a New External Distributor Credit for Cboe One Premium is equitable and reasonable. As discussed above, a similar New External Distributor Fee Credit was initially adopted at the time the Exchange began to offer the Cboe One Summary to subscribers. It was intended to incentivize new Distributors to enlist Users to subscribe to Cboe One Summary in an effort to broaden the product's distribution. Now the Exchange proposes to adopt a similar credit for Cboe One Premium subscribers for their first three (3) months to similarly incentivize new Distributors to enlist Users to subscribe to Cboe One Premium in an effort to broaden the product's distribution. While this incentive is not available to Internal Distributors of Cboe One Premium, the Exchange believes it is appropriate as Internal Distributors have no subscribers outside of their own firm. The Exchange believes extending the New External Distributor Credit for EDGX Summary Depth from one (1) month to three (3) months is also equitable and reasonable, as it (along with simultaneous corresponding proposals by the Exchange's affiliates) ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to EDGX, EDGA, BYX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

EDGX Top and EDGX Last Sale External Distribution Fee Waiver for Fees for External Distributors of EDGX Depth

Finally, the Exchange amending the fee waiver of EDGX Top and EDGX Last Sale feeds for External Distributors of EDGX Depth is equitable and reasonable. The Exchange believes eliminating the fee waiver is equitable and reasonable because it has been available, without change, since June 1, 2016[47] providing External Distributors with ample time to grow their subscriber bases. Moreover, the Exchange is not required to provide any such waiver to External Distributors of EDGX Depth.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by competition among exchanges that offer similar data products to their customers. Top-of-book data, depth-of-book data, and derived data is broadly disseminated by competing U.S. equities exchanges. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges without charge. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to

[45] *See e.g.,* Cboe EDGA Exchange, Inc., Fee Schedule, EDGA Top.

[46] *See https://www.cboe.com/us/equities/market_statistics/market_quality/.*

[47] *Supra* note 16.

other market participants. As discussed, the proposed fees, credit, and eliminated waiver would apply to all External Distributors of EDGX Top, Cboe One Premium, and EDGX Depth, respectively, on an equal and non-discriminatory basis. The continued difference in fees for internal and external distribution of EDGX Top are appropriate given the ability for External Distributors to redistribute data externally to their clients. Similarly, the credit applicable to only External Distributors is appropriate as it incentivizes such External Distributors to enlist subscribers, whereas Internal Distributors have no subscribers outside their firm. The Exchange therefore believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In setting the proposed fees, the Exchange is constrained by the availability of numerous substitute products offered by other national securities exchanges. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [48] and paragraph (f) of Rule 19b–4 [49] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeEDGX–2022–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2022–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2022–002 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01228 Filed 1–21–22; 8:45 am]

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[48] 15 U.S.C. 78s(b)(3)(A).

[49] 17 CFR 240.19b–4(f).

[50] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93987; File No. SR–NASDAQ–2022–001]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NOM Pricing Schedule at Options 7, Section 2

January 18, 2022.

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 January 3, 2022, The Nasdaq Stock Market LLC (''Nasdaq'' or ''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 proposes to amend the Nasdaq Options Market (''NOM'') Pricing Schedule at Options 7, Section 2.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 NOM's Pricing Schedule at Options 7, Section 2 to: (1) Increase the Fee to Remove Liquidity in Penny Symbols for Customers [4] and Professionals,[5] and (2) amend the qualifications for the Tier 3 NOM Market Maker [6] Rebate to Add Liquidity in Penny Symbols to allow an alternative way to qualify for the rebate. Each change is further discussed below.

Customer and Professional Fee To Remove Liquidity

Today, the Exchange charges Customers and Professionals a $0.48 per contract Fee to Remove Liquidity in Penny Symbols. The Exchange proposes to increase this fee to $0.49 per contract for Customers and Professionals.

NOM Market Maker Rebate To Add Liquidity

Today, the Exchange offers tiered NOM Market Maker Rebates to Add Liquidity in Penny Symbols that are $0.20 (Tier 1), $0.25 (Tier 2), $0.30 (Tier 3),[7] $0.32 (Tier 4),[8] $0.44 (Tier 5), and $0.48 (Tier 6). These rebates are paid per the highest tier achieved below.

Monthly volume	
Tier 1	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of up to 0.10% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.
Tier 2	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.10% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 3	Participant: (a) Adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.07% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month, (2) transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.70% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market, (3) transacts in Tape B securities through one or more of its Nasdaq Market Center MPIDs that represent 0.10% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market, and (4) executes greater than 0.01% of CV via Market-on- Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross in the same month.
Tier 4	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of above 0.60% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 5	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of above 0.40% of total industry customer equity and ETF option ADV contracts per day in a month and transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.40% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market.
Tier 6	Participant: (a)(1) Adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.95% of total industry customer equity and ETF option ADV contracts per day in a month, (2) executes Total Volume of 250,000 or more contracts per day in a month, of which 30,000 or more contracts per day in a month must be removing liquidity, and (3) adds Firm, Broker-Dealer and Non-NOM Market Maker liquidity in Non-Penny Symbols of 10,000 or more contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 1.50% of total industry customer equity and ETF option ADV contracts per day in a month, and (2) executes Total Volume of 250,000 or more contracts per day in a month, of which 15,000 or more contracts per day in a month must be removing liquidity.

As set forth above, the Exchange currently offers two different paths in (a) and (b) for Participants to achieve the Tier 3 Market Maker rebate. The Exchange now proposes to amend the Tier 3 qualifications in (b) as follows:

Participant . . . (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.07% to 0.20% of total industry customer equity and ETF option ADV contracts per day in a month, (2) transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent (i) 0.70% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market or (ii) 70 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market, (3) transacts in Tape B securities through one or more of its Nasdaq Market Center MPIDs that represent 0.10% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market, and (4) executes greater than 0.01% of CV via Market-on- Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross in the same month

The proposal adds an alternative route to achieve the equity component in (b)(2), namely by introducing an alternative volume-based requirement in new (b)(2)(ii) that requires Market Makers to transact in all securities through one or more of its Nasdaq Market Center MPIDs that represent 70 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market.[9] The options component in (b)(1) and the other equity components in (b)(3) and (b)(4) to qualify for the Tier 3 rebate will remain unchanged. The Exchange will also make a related change to renumber the existing volume requirement in (b)(2) as (b)(2)(i).

[4] The term ''Customer'' or (''C'') applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(a)(47)).

[5] The term ''Professional'' or (''P'') means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Options 1, Section 1(a)(47). All Professional orders shall be appropriately marked by Participants.

[6] The term ''NOM Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on NOM pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[7] This rebate is $0.40 per contract in the following symbols: AAPL, SPY, QQQ, IWM, and VXX. *See* Options 7, Section 2(1), note 4.

[8] *Id.*

[9] All NOM Participants are required to be members of The Nasdaq Stock Market pursuant to General 3 (Membership and Access).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [12]

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, while adopting a series of steps to improve the current market model, 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.'' [13]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Customer and Professional Fee To Remove Liquidity

The Exchange believes that its proposal to increase the Fee to Remove Liquidity in Penny Symbols for Customers and Professionals from $0.48 to $0.49 per contract is reasonable. While this fee is increasing, Customers and Professionals will continue to be assessed the lowest Fee to Remove Liquidity in Penny Symbols compared to all other market participants.[14] Accordingly, the Exchange believes that the proposed fee will continue to attract Customer and Professional order flow to NOM to the benefit of all market participants.

The Exchange further believes that its proposal is equitable and not unfairly discriminatory because it will apply uniformly to all similarly situated Participants. With the proposed changes, Customers and Professionals will continue to be assessed a lower Fee to Remove Liquidity in Penny Symbols compared to all other market participants. The Exchange does not believe it is inequitable or unfairly discriminatory to assess a lower fee to Customers and Professionals, and not to other market participants. Customer order flow offers unique benefits to the market by providing more trading opportunities, which attracts specialists and market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause a corresponding increase in order flow from other market participants. The Exchange believes that encouraging Professional order flow is similarly beneficial, as the lower fee may cause market participants to select NOM as a venue to send Professional order flow, which benefits all market participants by attracting valuable liquidity to the market and thereby enhancing the trading quality and efficiency for all.

NOM Market Maker Rebate To Add Liquidity

The Exchange believes that its proposal to amend the qualifications for the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Symbols represents a reasonable attempt to incentivize market participants to increase the number and variety of orders sent to the Exchange for execution. Specifically, the Exchange proposes to introduce an alternative volume-based requirement in new subsection (b)(2)(ii) that requires Market Makers to transact in all securities through one or more of its Nasdaq Market Center MPIDs that represent 70 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market. By introducing an alternative method to qualify for the Tier 3 rebate, the Exchange will create an additional opportunity for Market Makers to increase their liquidity adding activity on the Exchange's equity market. Taken together with existing options and equity components that comprise the Tier 3 rebate qualifications in (b), the Exchange believes that the amended qualifying criteria will continue to incentivize participation in greater volume from cross asset activity, which would improve the overall quality of the Exchange's marketplace to the benefit of all market participants, both on NOM and The Nasdaq Stock Market.

The Exchange also believes that the proposed changes to the qualifications for the Tier 3 Market Maker Rebate to Add Liquidity in Penny Symbols is equitable and not unfairly discriminatory because the Exchange will pay the Tier 3 rebate uniformly to any qualifying Market Makers. Market Makers add value through continuous quoting and the commitment of capital.[15] Because Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering the rebate to only Market Makers is equitable and not unfairly discriminatory in light of their obligations. Finally, encouraging Market Makers to add greater liquidity benefits all market participants, both on NOM and The Nasdaq Stock Market, in the quality of order interaction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[13] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[14] The Exchange currently charges all other market participants (*i.e.,* Broker-Dealers, Firms, Non-NOM Market Makers, and NOM Market Makers) a $0.50 per contract Fee to Remove Liquidity in Penny Symbols.

[15] *See* Options 2, Sections 4 and 5.

necessary or appropriate in furtherance of the purposes of the Act.

In terms of intra-market competition, the Exchange does not that its proposals will place any category of market participant at a competitive disadvantage. As discussed above, while the Exchange's proposals target certain order flow and activity on the Exchange (*i.e.,* Customer, Professional, and Market Maker activity), the proposed changes are ultimately aimed at attracting greater order flow to the Exchange, which benefits all market participants by providing more trading opportunities.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Participants or competing exchanges to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–NASDAQ–2022–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2022–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2022–001, and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01219 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93994; File No. SR–CboeBZX–2022–001]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Applicable to Various Market Data Products

January 18, 2022.

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 January 4, 2022, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fees applicable to various market data products. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Market Data section applicable to its equities trading platform (''BZX Equities''). Particularly, the Exchange proposes to (i) adopt a New External Distributor Credit applicable to Cboe One Premium, and (ii) extend the New External Distributor Credit applicable to BZX Summary Depth Feed from one (1) month to three (3) months.

By way of background, Cboe One Premium is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer (''BBO'') of all displayed orders for securities traded on BZX and its affiliated exchanges (*i.e.,* Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGX Exchange, Inc. (''EDGX''), and Cboe EDGA Exchange, Inc. (''EDGA'')) and contains optional functionality which enables recipients to receive aggregated two-sided quotations from BZX and its affiliated equities exchanges for up to five (5) price levels.[3] Currently, the Exchange charges an external distribution fee of $12,500 per month to External Distributors [4] of Cboe One Premium. The Exchange now proposes to adopt a New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Summary[sic] Feed. The Exchange believes the proposal will incentivize External Distributors to enlist new users to receive Cboe One Premium. To ensure consistency across the Cboe Equity Exchanges, EDGA, EDGX, and BYX will be filing companion proposals to reflect this proposal in their respective fee schedules.

The Exchange notes that it offers similar credits for other market data products. For example, the Exchange currently offers a one (1) month New External Distributor Credit applicable to Cboe One Summary,[5] which is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on BZX and its affiliated equities exchanges and also contains individual last sale information for the BZX and its affiliated equities exchanges.[6] It also offers a New External Distributor Credit of one (1) month for subscribers of BZX Summary Depth, which is a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels. BZX Summary Depth also contains the individual last sale information, Market Status, Trading Status, and Trade Break messages.[7] As noted above, the External Distribution fees for Cboe One Summary is equivalent to the aggregate BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth, and EDGX Summary Depth External Distribution fees. In order to alleviate any competitive issues that may arise with a vendor seeking to offer a product similar to the Cboe One Premium Feed based on the underlying data feeds, the Exchange proposes to also extend the current New External Distributor Credit for BZX Summary Depth from one (1) month to three (3) months and the Exchange's affiliates BYX, EDGA and EDGX are also submitting similar proposals to increase the length of their respective Summary Depth New External Distributor Credits from one (1) month to three (3) months. The respective proposals to extend these credits to three months ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to BZX, BYX, EDGA, and EDGX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.[10] Finally, the proposed rule change is also consistent with Rule 603 of Regulation NMS,[11] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

The Exchange believes that adopting a New External Distributor Credit for Cboe One Premium is equitable and reasonable. As discussed above, a similar New External Distributor Fee Credit was initially adopted at the time the Exchange began to offer the Cboe One Summary to subscribers. It was intended to incentivize new Distributors to enlist Users to subscribe to Cboe One Summary in an effort to broaden the product's distribution. Now, the Exchange proposes to adopt a similar credit for Cboe One Premium subscribers for their first three (3) months to similarly incentivize new Distributors to enlist Users to subscribe to Cboe One Premium in an effort to broaden the product's distribution. While this incentive is not available to Internal Distributors of Cboe One Premium, the Exchange believes it is appropriate as Internal Distributors have no subscribers outside of their own firm. The Exchange believes extending the New External Distributor Credit for BZX Summary Depth from one (1) month to three (3) months is also equitable and reasonable, as it (along with simultaneous corresponding proposals by the Exchange's affiliates) ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to BZX, BYX, EDGA, and EDGX Summary Depth feeds for new

[3] The Cboe Aggregated Market (''Cboe One'') Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges (*i.e.,* BYX, EDGX, and EDGA). *See* Exchange Rule 11.22(j). The Cboe One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Cboe Equities Exchanges for up to five (5) price levels (''Cboe One Premium Feed''). The Cboe One Premium external distribution fee is equal to the aggregate BZX Summary Depth, BYX Summary Depth, EDGX Summary Depth, and EDGA Summary Depth external distribution fees.

[4] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

[5] *See* Exchange Rule 11.22(j).

[6] The Exchange notes that when it first adopted the New External Distributor Credit for Cboe One Summary, it similarly applied for a new External Distributor's first three (3) months. *See* Securities Exchange Act Release No. 74285 (February 18, 2015), 80 FR 9828 (February 24, 2015) (SR–BATS–2015–11).

[7] *See* Exchange Rule 11.22(a)[sic].

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78k–1.

[11] *See* 17 CFR 242.603.

External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by competition among exchanges that offer similar data products to their customers. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed credits would apply to all External Distributors Cboe One Premium and BZX Depth on an equal and non-discriminatory basis. Further, the Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the proposed amendments are designed to enhance competition by providing an incentive to new Distributors to enlist new subscribers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2022–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–001 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01225 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, January 27, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics: Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings; Resolution of litigation claims; and Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: January 20, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–01446 Filed 1–20–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34472; File No. 812–14556]

Silver Point Specialty Lending Fund, et al.; Notice of Application

January 19, 2022.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Silver Point Specialty Lending Fund (the ''Company''), Silver Point Specialty Credit Fund Management, LLC (''Management''), Silver Point Capital, L.P. (''SPC''), Silver Point Capital Offshore Fund, Ltd., Silver Point Capital Offshore Master Fund, L.P., Silver Point Capital, L.P., Silver Point Distressed Opportunities Fund, L.P., Silver Point Distressed Opportunities Offshore Master Fund, L.P., Silver Point Distressed Opportunities Offshore Fund, L.P., Silver Point Distressed Opportunity Institutional Partners (Offshore), L.P., Silver Point Distressed Opportunity Institutional Partners, L.P., Silver Point Distressed Opportunity Institutional Partners Master Fund (Offshore), L.P., Silver Point Distressed Opportunities Management, LLC (''Distressed Opportunities Management''), Silver Point Select Opportunities Fund A, L.P., Silver Point Specialty Credit Fund II, L.P., Silver Point Specialty Credit Fund II (Offshore), L.P., Silver Point Specialty Credit Fund II (Offshore) B, L.P., Silver Point Specialty Credit Fund II (Offshore) C, L.P., Silver Point Specialty Credit Fund II Mini-Master Fund (Offshore), L.P., Silver Point Specialty Credit Fund II Mini-Master Fund, L.P., Silver Point Specialty Credit Fund II Management, LLC (''Specialty Credit II Management''), Silver Point Specialty Credit Silver Star Fund, L.P., Silver Point Specialty Credit Silver Star Fund Management, LLC (''Silver Star Management''), Silver Point Loan Funding, LLC, and Silver Point Loan Funding Management, LLC (''Funding Management'').

DATES: The application was filed on October 1, 2015, and amended on December 27, 2017, July 20, 2018, September 17, 2018, December 17, 2018, July 28, 2021, October 22, 2021, January 7, 2022 and January 12, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on February 14, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: *Compliance@silverpointcapital.com.*

FOR FURTHER INFORMATION CONTACT: Erin Loomis Moore, Senior Counsel, or Joseph Toner, Acting Branch Chief, at (202) 551–6825 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *https://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Introduction

1. The Applicants request an order of the Commission under Sections 17(d) and 57(i) and Rule 17d–1 thereunder (the ''Order'') to permit, subject to the terms and conditions set forth in the application (the ''Conditions''), a Regulated Fund [1] and one or more other Regulated Funds and/or one or more Affiliated Funds [2] to enter into Co-Investment Transactions with each other. ''Co-Investment Transaction'' means any transaction in which one or more Regulated Funds (or its Wholly-Owned Investment Sub) participated together with one or more Affiliated Funds and/or one or more other Regulated Funds in reliance on the Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[3]

Applicants

2. The Company is a closed-end Maryland statutory trust that has elected

[1] ''Regulated Funds'' means the Company, any Future Regulated Funds and any BDC Downstream Funds (defined below). ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser (and sub-adviser(s), if any) is an Adviser and (c) that intends to participate in the Co-Investment Program. ''Adviser'' means any Existing Advisers (defined below), together with any future investment adviser that intends to participate in the Co-Investment Program (defined below) and (i) controls, is controlled by or is under common control with an Existing Adviser, (ii)(a) is registered as an investment adviser under the Advisers Act, or (b) is a relying adviser of an investment adviser that is registered under the Advisers Act and that controls, is controlled by or is under common control with an Existing Adviser and (iii) is not a Regulated Fund or a subsidiary of a Regulated Fund. ''Co-Investment Program'' means the proposed co-investment program that would permit one or more Regulated Funds and/or one or more Affiliated Funds (defined below) to participate in the same investment opportunities where such participation would otherwise be prohibited under Section 57(a)(4) and Rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price; and (b) making Follow-On Investments (defined below). The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act of 1933 (the ''Securities Act''). ''Existing Advisers'' means Management, SPC, Specialty Credit II Management, Silver Star Management, Funding Management and Distressed Opportunities Management.

[2] ''Affiliated Fund'' means the Existing Affiliated Funds and any Future Affiliated Funds. No Existing Affiliated Fund is a BDC Downstream Fund. ''BDC Downstream Fund'' means, with respect to the Company or any Regulated Fund that is a BDC, an entity (i) that the BDC directly or indirectly controls, (ii) that is not controlled by any person other than the BDC (except a person that indirectly controls the entity solely because it controls the BDC), (iii) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the Act, (iv) whose investment adviser (and sub-adviser(s), if any) is an Adviser, (v) that is not a Wholly-Owned Investment Sub and (vi) that intends to participate in the Co-Investment Program.

[3] All existing entities that currently intend to rely on the Order have been named as Applicants and any existing or future entities that may rely on the Order in the future will comply with its terms and Conditions set forth in the application.

to be regulated as a BDC under the Act.[4] The Company's Board [5] is comprised of a majority of members who are Independent Directors.[6]

3. Management, a Delaware limited liability company that is registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Company.

4. The Existing Affiliated Funds are the investment funds identified in Appendix A to the application. Applicants represent that each Existing Affiliated Fund is a separate and distinct legal entity and each would be an investment company but for Section 3(c)(1), 3(c)(5)(C) or 3(c)(7) of the Act.

5. SPC, Specialty Credit II Management, Silver Star Management, Funding Management and Distressed Opportunities Management are the investment advisers to the Existing Affiliated Funds. SPC is registered as an investment adviser under the Advisers Act. Specialty Credit II Management is a wholly-owned subsidiary of SPC and is a relying adviser under the Advisers Act through a single registration with SPC. Silver Star Management is a wholly-owned subsidiary of SPC and is a relying adviser under the Advisers Act through a single registration with SPC. Funding Management is a wholly-owned subsidiary of SPC and will be a relying adviser under the Advisers Act through a single registration with SPC prior to relying on the Order. Distressed Opportunities Management is a wholly-owned subsidiary of SPC and is a relying adviser under the Advisers Act through a single registration with SPC.

6. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[7] Such a subsidiary may be prohibited from investing in a Co-Investment Transaction with a Regulated Fund (other than its parent) or any Affiliated Fund because it would be a company controlled by its parent Regulated Fund for purposes of Section 57(a)(4) and Rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of the applicable parent Regulated Fund that owns it and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the parent Regulated Fund and the Wholly-Owned Investment Sub. The Board of the parent Regulated Fund would make all relevant determinations under the Conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the parent Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board of the parent Regulated Fund will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

Applicants' Representations

A. Allocation Process

7. Applicants state that the Adviser is presented with numerous investment opportunities each year on behalf of its clients and the Adviser will determine how to allocate those opportunities in a manner that, over time, is fair and equitable to all of its clients, and without violating the prohibitions on joint transactions included in Rule 17d–1 and Section 57(a)(4) of the Act. Such investment opportunities may be Potential Co-Investment Transactions.

8. Applicants represent that the Adviser has established processes for allocating initial investment opportunities, opportunities for subsequent investments in an issuer and dispositions of securities holdings reasonably designed to treat all clients fairly and equitably. Further, Applicants represent that these processes will be extended and modified in a manner reasonably designed to ensure that the additional transactions permitted under the Order will both (i) be fair and equitable to the Regulated Funds and the Affiliated Funds and (ii) comply with the Conditions contained in the Order.

9. Specifically, applicants state that the Advisers are organized and managed such that the portfolio managers and analysts (''Investment Teams''), responsible for evaluating investment opportunities and making investment decisions on behalf of clients are promptly notified of the opportunities. If the requested Order is granted, the Advisers will establish, maintain and implement policies and procedures reasonably designed to ensure that, when such opportunities arise, the Advisers to the relevant Regulated Funds are promptly notified and receive the same information about the opportunity as any other Advisers considering the opportunity for their clients. In particular, consistent with Condition 1, if a Potential Co-Investment Transaction falls within the then-current Objectives and Strategies [8] and any Board-Established Criteria [9] of a

[4] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in Section 55(a)(1) through 55(a)(3) and makes available significant managerial assistance with respect to the issuers of such securities.

[5] ''Board'' means (i) with respect to a Regulated Fund other than a BDC Downstream Fund, the board of directors (or the equivalent) of the applicable Regulated Fund and (ii) with respect to a BDC Downstream Fund, the Independent Party of the BDC Downstream Fund. ''Independent Party'' means, with respect to a BDC Downstream Fund, (i) if the BDC Downstream Fund has a board of directors (or the equivalent), the board or (ii) if the BDC Downstream Fund does not have a board of directors (or the equivalent), a transaction committee or advisory committee of the BDC Downstream Fund.

[6] ''Independent Director'' means a member of the Board of any relevant entity who is not an ''interested person'' as defined in Section 2(a)(19) of the Act. No Independent Director of a Regulated Fund (including any non-interested member of an Independent Party) will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

[7] ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with such Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of such Regulated Fund (and, in the case of a SBIC Subsidiary (defined below), maintain a license under the SBA Act (defined below) and issue debentures guaranteed by the SBA (defined below)); (iii) with respect to which such Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the Conditions to the application; and (iv) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the Act. The term ''SBIC Subsidiary'' means a Wholly-Owned Investment Sub that is licensed by the Small Business Administration (the ''SBA'') to operate under the Small Business Investment Act of 1958, as amended, (the ''SBA Act'') as a small business investment company (an ''SBIC'').

[8] ''Objectives and Strategies'' means (i) with respect to any Regulated Fund other than a BDC Downstream Fund, its investment objectives and strategies, as described in its most current registration statement on Form N–2, other current filings with the Commission under the Securities Act or under the Securities Exchange Act of 1934, as amended, and its most current report to stockholders and (ii) with respect to a BDC Downstream Fund, those investment objectives and strategies described in its disclosure documents (including private placement memoranda and reports to equity holders) and organizational documents (including operating agreements).

[9] ''Board-Established Criteria'' means criteria that the Board of a Regulated Fund may establish from time to time to describe the characteristics of Potential Co-Investment Transactions regarding which the Adviser to such Regulated Fund should be notified under Condition 1. The Board-Established Criteria will be consistent with the

Continued

Regulated Fund, the policies and procedures will require that the relevant Investment Team responsible for that Regulated Fund receive sufficient information to allow the Regulated Fund's Adviser to make its independent determination and recommendations under the Conditions.

10. The Adviser to each applicable Regulated Fund, working through the applicable Investment Team, will then make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances. If the Adviser to a Regulated Fund deems the Regulated Fund's participation in such Potential Co-Investment Transaction to be appropriate, then it will, working through the applicable Investment Team, formulate a recommendation regarding the proposed order amount for the Regulated Fund.

11. Applicants state that, for each Regulated Fund and Affiliated Fund whose Adviser recommends participating in a Potential Co-Investment Transaction, the Adviser will submit a proposed order amount to the internal allocation committee, which the Adviser will establish to handle the allocation of investment opportunities in Potential Co-Investment Transactions (''Co-Investment Transaction Allocation Committee''). Applicants state further that each proposed order amount may be reviewed and adjusted, in accordance with the Advisers' written allocation policies and procedures, by the Co-Investment Transaction Allocation Committee.[10] The order of a Regulated Fund or Affiliated Fund resulting from this process is referred to as its ''Internal Order''. The Internal Order will be submitted for approval by the Required Majority of any participating Regulated Funds in accordance with the Conditions.[11]

12. If the aggregate Internal Orders for a Potential Co-Investment Transaction do not exceed the size of the investment opportunity immediately prior to the submission of the orders to the underwriter, broker, dealer or issuer, as applicable (the ''External Submission''), then each Internal Order will be fulfilled as placed. If, on the other hand, the aggregate Internal Orders for a Potential Co-Investment Transaction exceed the size of the investment opportunity immediately prior to the External Submission, then the allocation of the opportunity will be made pro rata on the basis of the size of the Internal Orders.[12] If, subsequent to such External Submission, the size of the opportunity is increased or decreased, or if the terms of such opportunity, or the facts and circumstances applicable to the Regulated Funds' or the Affiliated Funds' consideration of the opportunity, change, the participants will be permitted to submit revised Internal Orders in accordance with written allocation policies and procedures that the Advisers will establish, implement and maintain.[13]

B. Follow-On Investments

13. Applicants state that from time to time the Regulated Funds and Affiliated Funds may have opportunities to make Follow-On Investments[14] in an issuer in which a Regulated Fund and one or more other Regulated Funds and/or Affiliated Funds previously have invested and continue to hold an investment.

14. Applicants propose that Follow-On Investments would be divided into two categories depending on whether the Regulated Funds and Affiliated Funds holding investments in the issuer previously participated in a Co-Investment Transaction with respect to the issuer and continue to hold any securities acquired in a Co-Investment Transaction for that issuer. If the Regulated Funds and Affiliated Funds had previously participated in a Co-Investment Transaction with respect to the issuer, then the terms and approval of the Follow-On Investment would be subject to the Standard Review Follow-Ons described in Condition 8. If the Regulated Funds and Affiliated Funds have not previously participated in a Co-Investment Transaction with respect to the issuer but hold a Pre-Boarding Investment, then the terms and approval of the Follow-On Investment would be subject to the Enhanced-Review Follow-Ons described in Condition 9.[15] All Enhanced Review Follow-Ons require the approval of the Required Majority. For a given issuer, the participating Regulated Funds and Affiliated Funds would need to comply with the requirements of Enhanced-Review Follow-Ons only for the first Co-Investment Transaction. Subsequent Co-Investment Transactions with respect to the issuer would be governed by the requirements of Standard Review Follow-Ons.

Regulated Fund's Objectives and Strategies. If no Board-Established Criteria are in effect, then the Regulated Fund's Adviser will be notified of all Potential Co-Investment Transactions that fall within the Regulated Fund's then-current Objectives and Strategies. Board-Established Criteria will be objective and testable, meaning that they will be based on observable information, such as industry/sector of the issuer, minimum earnings before interest expense, income tax expense, depreciation and amortization, or ''EBITDA,'' of the issuer, asset class of the investment opportunity or required commitment size, and not on characteristics that involve a discretionary assessment. The Adviser to the Regulated Fund may from time to time recommend criteria for the Board's consideration, but Board-Established Criteria will only become effective if approved by a majority of the Independent Directors. The Independent Directors of a Regulated Fund may at any time rescind, suspend or qualify its approval of any Board-Established Criteria, though the Applicants anticipate that, under normal circumstances, the Board would not modify these criteria more often than quarterly.

[10] The reason for any such adjustment to a proposed order amount will be documented in writing and preserved in the records of the Advisers.

[11] ''Required Majority'' means a required majority, as defined in Section 57(o) of the Act. In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o). In the case of a BDC Downstream Fund with a board of directors (or the equivalent), the members that make up the Required Majority will be determined as if the BDC Downstream Fund were a BDC subject to Section 57(o). In the case of a BDC Downstream Fund with a transaction committee or advisory committee, the committee members that make up the Required Majority will be determined as if the BDC Downstream Fund were a BDC subject to Section 57(o) and as if the committee members were directors of the fund.

[12] The Advisers will maintain records of all proposed order amounts, Internal Orders and External Submissions in conjunction with Potential Co-Investment Transactions. Each applicable Adviser will provide the Eligible Directors with information concerning the Affiliated Funds' and Regulated Funds' order sizes to assist the Eligible Directors with their review of the applicable Regulated Fund's investments for compliance with the Conditions. ''Eligible Directors'' means, with respect to a Regulated Fund and a Potential Co-Investment Transaction, the members of the Regulated Fund's Board eligible to vote on that Potential Co-Investment Transaction under Section 57(o) of the Act.

[13] However, if the size of the opportunity is decreased such that the aggregate of the original Internal Orders would exceed the amount of the remaining investment opportunity, then upon submitting any revised order amount to the Board of a Regulated Fund for approval, the Adviser to the Regulated Fund will also notify the Board promptly of the amount that the Regulated Fund would receive if the remaining investment opportunity were allocated pro rata on the basis of the size of the original Internal Orders. The Board of the Regulated Fund will then either approve or disapprove of the investment opportunity in accordance with condition 2, 6, 7, 8 or 9, as applicable.

[14] ''Follow-On Investment'' means an additional investment in the same issuer, including, but not limited to, through the exercise of warrants, conversion privileges or other rights to purchase securities of the issuer.

[15] ''Pre-Boarding Investments'' are investments in an issuer held by a Regulated Fund as well as one or more Affiliated Funds and/or one or more other Regulated Funds that were acquired prior to participating in any Co-Investment Transaction: (i) In transactions in which the only term negotiated by or on behalf of such funds was price in reliance on one of the JT No-Action Letters (defined below); or (ii) in transactions occurring at least 90 days apart and without coordination between the Regulated Fund and any Affiliated Fund or other Regulated Fund.

15. A Regulated Fund would be permitted to invest in Standard Review Follow-Ons either with the approval of the Required Majority under Condition 8(c) or without Board approval under Condition 8(b) if it is (i) a Pro Rata Follow-On Investment [16] or (ii) a Non-Negotiated Follow-On Investment.[17] Applicants believe that these Pro Rata and Non-Negotiated Follow-On Investments do not present a significant opportunity for overreaching on the part of any Adviser and thus do not warrant the time or the attention of the Board. Pro Rata Follow-On Investments and Non-Negotiated Follow-On Investments remain subject to the Board's periodic review in accordance with Condition 10.

C. Dispositions

16. Applicants propose that Dispositions [18] would be divided into two categories. If the Regulated Funds and Affiliated Funds holding investments in the issuer had previously participated in a Co-Investment Transaction with respect to the issuer and continue to hold any securities acquired in a Co-Investment Transaction for such issuer, then the terms and approval of the Disposition would be subject to the Standard Review Dispositions described in Condition 6. If the Regulated Funds and Affiliated Funds have not previously participated in a Co-Investment Transaction with respect to the issuer, then the terms and approval of the Disposition would be subject to the Enhanced Review Dispositions described in Condition 7. Subsequent Dispositions with respect to the same issuer would be governed by Condition 6 under the Standard Review Dispositions.[19]

17. A Regulated Fund may participate in a Standard Review Disposition either with the approval of the Required Majority under Condition 6(d) or without Board approval under Condition 6(c) if (i) the Disposition is a Pro Rata Disposition [20] or (ii) the securities are Tradable Securities [21] and the Disposition meets the other requirements of Condition 6(c)(ii). Pro Rata Dispositions and Dispositions of a Tradable Security remain subject to the Board's periodic review in accordance with Condition 10.

D. Delayed Settlement

18. Applicants represent that under the terms and Conditions of the Application, all Regulated Funds and Affiliated Funds participating in a Co-Investment Transaction will invest at the same time, for the same price and with the same terms, conditions, class, registration rights and any other rights, so that none of them receives terms more favorable than any other. However, the settlement date for an Affiliated Fund in a Co-Investment Transaction may occur up to ten business days after the settlement date for the Regulated Fund, and vice versa.[22] Nevertheless, in all cases, (i) the date on which the commitment of the Affiliated Funds and Regulated Funds is made will be the same even where the settlement date is not and (ii) the earliest settlement date and the latest settlement date of any Affiliated Fund or Regulated Fund participating in the transaction will occur within ten business days of each other.

E. Holders

19. Under Condition 15, if an Adviser, its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in Condition 15. Applicants believe that this Condition will ensure that the Independent Directors will act independently in evaluating Co-Investment Transactions, because the ability of the Adviser or its principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. The Independent Directors shall evaluate and approve any independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit participation by a registered investment company and an affiliated person in any ''joint enterprise or other joint arrangement or profit-sharing plan,'' as defined in the rule, without prior approval by the Commission by order

[16] A ''Pro Rata Follow-On Investment'' is a Follow-On Investment (i) in which the participation of each Affiliated Fund and each Regulated Fund is proportionate to its outstanding investments in the issuer or security, as appropriate, immediately preceding the Follow-On Investment, and (ii) in the case of a Regulated Fund, a majority of the Board has approved the Regulated Fund's participation in the pro rata Follow-On Investments as being in the best interests of the Regulated Fund. The Regulated Fund's Board may refuse to approve, or at any time rescind, suspend or qualify, their approval of Pro Rata Follow-On Investments, in which case all subsequent Follow-On Investments will be submitted to the Regulated Fund's Eligible Directors in accordance with Condition 8(c).

[17] A ''Non-Negotiated Follow-On Investment'' is a Follow-On Investment in which a Regulated Fund participates together with one or more Affiliated Funds and/or one or more other Regulated Funds (i) in which the only term negotiated by or on behalf of the funds is price and (ii) with respect to which, if the transaction were considered on its own, the funds would be entitled to rely on one of the JT No-Action Letters. ''JT No-Action Letters'' means *SMC Capital, Inc.,* SEC No-Action Letter (pub. avail. Sept. 5, 1995) and *Massachusetts Mutual Life Insurance Company,* SEC No-Action Letter (pub. avail. June 7, 2000).

[18] ''Disposition'' means the sale, exchange or other disposition of an interest in a security of an issuer.

[19] However, with respect to an issuer, if a Regulated Fund's first Co-Investment Transaction is an Enhanced Review Disposition, and the Regulated Fund does not dispose of its entire position in the Enhanced Review Disposition, then before such Regulated Fund may complete its first Standard Review Follow-On in such issuer, the Eligible Directors must review the proposed Follow-On Investment not only on a stand-alone basis but also in relation to the total economic exposure in such issuer (*i.e.,* in combination with the portion of the Pre-Boarding Investment not disposed of in the Enhanced Review Disposition), and the other terms of the investments. This additional review would be required because such findings would not have been required in connection with the prior Enhanced Review Disposition, but they would have been required had the first Co-Investment Transaction been an Enhanced Review Follow-On.

[20] A ''Pro Rata Disposition'' is a Disposition (i) in which the participation of each Affiliated Fund and each Regulated Fund is proportionate to its outstanding investment in the security subject to Disposition immediately preceding the Disposition; and (ii) in the case of a Regulated Fund, a majority of the Board has approved the Regulated Fund's participation in pro rata Dispositions as being in the best interests of the Regulated Fund. The Regulated Fund's Board may refuse to approve, or at any time rescind, suspend or qualify, their approval of Pro Rata Dispositions, in which case all subsequent Dispositions will be submitted to the Regulated Fund's Eligible Directors.

[21] ''Tradable Security'' means a security that meets the following criteria at the time of Disposition: (i) It trades on a national securities exchange or designated offshore securities market as defined in rule 902(b) under the Securities Act; (ii) it is not subject to restrictive agreements with the issuer or other security holders; and (iii) it trades with sufficient volume and liquidity (findings as to which are documented by the Advisers to any Regulated Funds holding investments in the issuer and retained for the life of the Regulated Fund) to allow each Regulated Fund to dispose of its entire position remaining after the proposed Disposition within a short period of time not exceeding 30 days at approximately the value (as defined by Section 2(a)(41) of the Act) at which the Regulated Fund has valued the investment.

[22] Applicants state this may occur for two reasons. First, when the Affiliated Fund or Regulated Fund is not yet fully funded because, when the Affiliated Fund or Regulated Fund desires to make an investment, it must call capital from its investors to obtain the financing to make the investment, and in these instances, the notice requirement to call capital could be as much as ten business days. Second, where, for tax or regulatory reasons, an Affiliated Fund or Regulated Fund does not purchase new issuances immediately upon issuance but only after a short seasoning period of up to ten business days.

upon application. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Similarly, with regard to BDCs, section 57(a)(4) of the Act generally prohibits certain persons specified in section 57(b) from participating in joint transactions with the BDC or a company controlled by the BDC in contravention of rules as prescribed by the Commission. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs.

3. Co-Investment Transactions are prohibited by either or both of Rule 17d–1 and Section 57(a)(4) without a prior exemptive order of the Commission to the extent that the Affiliated Funds and the Regulated Funds participating in such transactions fall within the category of persons described by Rule 17d–1 and/or Section 57(b), as applicable, vis-à-vis each participating Regulated Fund. Each of the participating Regulated Funds and Affiliated Funds may be deemed to be affiliated persons vis-à-vis a Regulated Fund within the meaning of Section 2(a)(3) by reason of common control because (i) an Existing Adviser is the investment adviser (and sub-adviser, if any) to, and may be deemed to control, each of the Existing Affiliated Funds, and an Adviser to Affiliated Funds will be the investment adviser (and sub-adviser, if any) to, and may be deemed to control, any other Affiliated Fund; (ii) an Existing Adviser is the investment adviser (and sub-adviser, if any) to, and may be deemed to control, the Company and an Adviser will be the investment adviser (and sub-adviser, if any) to, and may be deemed to control, any Future Regulated Fund; (iii) each BDC Downstream Fund will be deemed to be controlled by its BDC parent and/or its BDC parent's investment adviser; and (iv) the Advisers to Affiliated Funds and the Advisers to Regulated Funds are under common control. Thus, each of the Affiliated Funds could be deemed to be a person related to the Regulated Funds, including any BDC Downstream Fund, in a manner described by Section 57(b) and related to the other Regulated Funds in a manner described by Rule 17d–1; and therefore the prohibitions of Rule 17d–1 and Section 57(a)(4) would apply respectively to prohibit the Affiliated Funds from participating in Co-Investment. Transactions with the Regulated Funds.

4. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

5. Applicants state that in the absence of the requested relief, in many circumstances the Regulated Funds would be limited in their ability to participate in attractive and appropriate investment opportunities. Applicants state that, as required by Rule 17d–1(b), the Conditions ensure that the terms on which Co-Investment Transactions may be made will be consistent with the participation of the Regulated Funds being on a basis that it is neither different from nor less advantageous than other participants, thus protecting the equity holders of any participant from being disadvantaged. Applicants further state that the Conditions ensure that all Co-Investment Transactions are reasonable and fair to the Regulated Funds and their shareholders and do not involve overreaching by any person concerned, including the Advisers. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions in accordance with the Conditions will be consistent with the provisions, policies, and purposes of the Act and would be done in a manner that is not different from, or less advantageous than, that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following Conditions:

1. *Identification and Referral of Potential Co-Investment Transactions.*

(a) The Advisers will establish, maintain and implement policies and procedures reasonably designed to ensure that each Adviser is promptly notified of all Potential Co-Investment Transactions that fall within the then-current Objectives and Strategies and Board-Established Criteria of any Regulated Fund the Adviser manages.

(b) When an Adviser to a Regulated Fund is notified of a Potential Co-Investment Transaction under Condition 1(a), the Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. *Board Approvals of Co-Investment Transactions.*

(a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the Advisers to be invested in the Potential Co-Investment Transaction by the participating Regulated Funds and any participating Affiliated Funds, collectively, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on the size of the Internal Orders, as described in Section III.A.1.b. of the application. Each Adviser to a participating Regulated Fund will promptly notify and provide the Eligible Directors with information concerning the Affiliated Funds' and Regulated Funds' order sizes to assist the Eligible Directors with their review of the applicable Regulated Fund's investments for compliance with these Conditions.

(c) After making the determinations required in Condition 1(b) above, each Adviser to a participating Regulated Fund will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and each participating Affiliated Fund) to the Eligible Directors of its participating Regulated Fund(s) for their consideration. A Regulated Fund will enter into a Co-Investment Transaction with one or more other Regulated Funds or Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its equity holders and do not involve overreaching in respect of the Regulated Fund or its equity holders on the part of any person concerned;

(ii) the transaction is consistent with:

(A) The interests of the Regulated Fund's equity holders; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Fund(s) or Affiliated Fund(s) would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from, or less advantageous than, that of any other Regulated Fund(s) or Affiliated Fund(s) participating in the transaction; provided that the Required Majority

shall not be prohibited from reaching the conclusions required by this Condition 2(c)(iii) if:

(A) The settlement date for another Regulated Fund or an Affiliated Fund in a Co-Investment Transaction is later than the settlement date for the Regulated Fund by no more than ten business days or earlier than the settlement date for the Regulated Fund by no more than ten business days, in either case, so long as: (x) The date on which the commitment of the Affiliated Funds and Regulated Funds is made is the same; and (y) the earliest settlement date and the latest settlement date of any Affiliated Fund or Regulated Fund participating in the transaction will occur within ten business days of each other; or

(B) any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors, the right to have a board observer or any similar right to participate in the governance or management of the portfolio company so long as: (x) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any; (y) the Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and (z) any fees or other compensation that any other Regulated Fund or Affiliated Fund or any affiliated person of any other Regulated Fund or Affiliated Fund receives in connection with the right of one or more Regulated Funds or Affiliated Funds to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among any participating Affiliated Funds (who may, in turn, share their portion with their affiliated persons) and any participating Regulated Fund(s) in accordance with the amount of each such party's investment; and

(iv) the proposed investment by the Regulated Fund will not involve compensation, remuneration or a direct or indirect [23] financial benefit to the Advisers, any other Regulated Fund, the Affiliated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by Condition 14, (B) to the extent permitted by Section 17(e) or 57(k), as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in Condition 2(c)(iii)(B)(z).

3. *Right to Decline.* Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. *General Limitation.* Except for Follow-On Investments made in accordance with Conditions 8 and 9 below,[24] a Regulated Fund will not invest in reliance on the Order in any issuer in which a Related Party has an investment.[25]

5. *Same Terms and Conditions.* A Regulated Fund will not participate in any Potential Co-Investment Transaction unless (i) the terms, conditions, price, class of securities to be purchased, date on which the commitment is entered into and registration rights (if any) will be the same for each participating Regulated Fund and Affiliated Fund and (ii) the earliest settlement date and the latest settlement date of any participating Regulated Fund or Affiliated Fund will occur as close in time as practicable and in no event more than ten business days apart. The grant to one or more Regulated Funds or Affiliated Funds, but not the respective Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this Condition 5, if Condition 2(c)(iii)(B) is met.

6. *Standard Review Dispositions.*

(a) *General.* If any Regulated Fund or Affiliated Fund elects to sell, exchange or otherwise dispose of an interest in a security and one or more Regulated Funds and Affiliated Funds have previously participated in a Co-Investment Transaction with respect to the issuer, then:

(i) The Adviser to such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds an investment in the issuer of the proposed Disposition at the earliest practical time; and

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to participation by such Regulated Fund in the Disposition.

(b) *Same Terms and Conditions.* Each Regulated Fund will have the right to participate in such Disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Affiliated Funds and any other Regulated Fund.

(c) *No Board Approval Required.* A Regulated Fund may participate in such a Disposition without obtaining prior approval of the Required Majority if:

(i) (A) The participation of each Regulated Fund and Affiliated Fund in such Disposition is proportionate to its then-current holding of the security (or securities) of the issuer that is (or are) the subject of the Disposition; [26] (B) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such Dispositions on a pro rata basis (as described in greater detail in the application); and (C) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Dispositions made in accordance with this Condition; or

(ii) each security is a Tradable Security and (A) the Disposition is not to the issuer or any affiliated person of the issuer; and (B) the security is sold for cash in a transaction in which the only term negotiated by or on behalf of the participating Regulated Funds and Affiliated Funds is price.

(d) *Standard Board Approval.* In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors and the Regulated Fund will participate in such Disposition solely to the extent that a

[23] For example, procuring the Regulated Fund's investment in a Potential Co-Investment Transaction to permit an affiliate to complete or obtain better terms in a separate transaction would constitute an indirect financial benefit.

[24] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

[25] ''Related Party'' means (i) any Close Affiliate and (ii) in respect of matters as to which any Adviser has knowledge, any Remote Affiliate. ''Close Affiliate'' means the Advisers, the Regulated Funds, the Affiliated Funds and any other person described in Section 57(b) (after giving effect to Rule 57b–1) in respect of any Regulated Fund (treating any registered investment company or series thereof as a BDC for this purpose) except for limited partners included solely by reason of the reference in Section 57(b) to Section 2(a)(3)(D). ''Remote Affiliate'' means any person described in Section 57(e) in respect of any Regulated Fund (treating any registered investment company or series thereof as a BDC for this purpose) and any limited partner holding 5% or more of the relevant limited partner interests that would be a Close Affiliate but for the exclusion in that definition.

[26] In the case of any Disposition, proportionality will be measured by each participating Regulated Fund's and Affiliated Fund's outstanding investment in the security in question immediately preceding the Disposition.

Required Majority determines that it is in the Regulated Fund's best interests.

7. *Enhanced Review Dispositions.*

(a) *General.* If any Regulated Fund or Affiliated Fund elects to sell, exchange or otherwise dispose of a Pre-Boarding Investment in a Potential Co-Investment Transaction and the Regulated Funds and Affiliated Funds have not previously participated in a Co-Investment Transaction with respect to the issuer:

(i) The Adviser to such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds an investment in the issuer of the proposed Disposition at the earliest practical time;

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to participation by such Regulated Fund in the Disposition; and

(iii) the Advisers will provide to the Board of each Regulated Fund that holds an investment in the issuer all information relating to the existing investments in the issuer of the Regulated Funds and Affiliated Funds, including the terms of such investments and how they were made, that is necessary for the Required Majority to make the findings required by this Condition.

(b) *Enhanced Board Approval.* The Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Disposition solely to the extent that a Required Majority determines that:

(i) The Disposition complies with Conditions 2(c)(i), (ii), (iii)(A), and (iv).

(ii) The making and holding of the Pre-Boarding Investments were not prohibited by Section 57 or Rule 17d–1, as applicable, and records the basis for the finding in the Board minutes.

(c) *Additional Requirements.* The Disposition may only be completed in reliance on the Order if:

(i) *Same Terms and Conditions.* Each Regulated Fund has the right to participate in such Disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Affiliated Funds and any other Regulated Fund;

(ii) *Original Investments.* All of the Affiliated Funds' and Regulated Funds' investments in the issuer are Pre-Boarding Investments;

(iii) *Advice of counsel.* Independent counsel to the Board advises that the making and holding of the investments in the Pre-Boarding Investments were not prohibited by Section 57 (as modified by Rule 57b–1) or Rule 17d–1, as applicable;

(iv) *Multiple Classes of Securities.* All Regulated Funds and Affiliated Funds that hold Pre-Boarding Investments in the issuer immediately before the time of completion of the Co-Investment Transaction hold the same security or securities of the issuer. For the purpose of determining whether the Regulated Funds and Affiliated Funds hold the same security or securities, they may disregard any security held by some but not all of them if, prior to relying on the Order, the Required Majority is presented with all information necessary to make a finding, and finds, that: (x) Any Regulated Fund's or Affiliated Fund's holding of a different class of securities (including for this purpose a security with a different maturity date) is immaterial [27] in amount, including immaterial relative to the size of the issuer; and (y) the Board records the basis for any such finding in its minutes. In addition, securities that differ only in respect of issuance date, currency, or denominations may be treated as the same security; and

(v) *No control.* The Affiliated Funds, the other Regulated Funds and their affiliated persons (within the meaning of Section 2(a)(3)(C) of the Act), individually or in the aggregate, do not control the issuer of the securities (within the meaning of Section 2(a)(9) of the Act).

8. *Standard Review Follow-Ons.*

(a) *General.* If any Regulated Fund or Affiliated Fund desires to make a Follow-On Investment in an issuer and the Regulated Funds and Affiliated Funds holding investments in the issuer previously participated in a Co-Investment Transaction with respect to the issuer:

(i) The Adviser to each such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds securities of the portfolio company of the proposed transaction at the earliest practical time; and

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to the proposed participation, including the amount of the proposed investment, by such Regulated Fund.

(b) *No Board Approval Required.* A Regulated Fund may participate in the Follow-On Investment without obtaining prior approval of the Required Majority if:

(i) (A) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer or the security at issue, as appropriate,[28] immediately preceding the Follow-On Investment; and (B) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the Application); or

(ii) it is a Non-Negotiated Follow-On Investment.

(c) *Standard Board Approval.* In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority makes the determinations set forth in Condition 2(c). If the only previous Co-Investment Transaction with respect to the issuer was an Enhanced Review Disposition the Eligible Directors must complete this review of the proposed Follow-On Investment both on a stand-alone basis and together with the Pre-Boarding Investments in relation to the total economic exposure and other terms of the investment.

(d) *Allocation.* If, with respect to any such Follow-On Investment:

(i) The amount of the opportunity proposed to be made available to any Regulated Fund is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments in the issuer or the security at issue, as appropriate, immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Advisers to be invested in the Follow-On Investment by the participating Regulated Funds and any participating Affiliated Funds, collectively, exceeds the amount of the investment opportunity,

[27] In determining whether a holding is ''immaterial'' for purposes of the Order, the Required Majority will consider whether the nature and extent of the interest in the transaction or arrangement is sufficiently small that a reasonable person would not believe that the interest affected the determination of whether to enter into the transaction or arrangement or the terms of the transaction or arrangement.

[28] To the extent that a Follow-On Investment opportunity is in a security or arises in respect of a security held by the participating Regulated Funds and Affiliated Funds, proportionality will be measured by each participating Regulated Fund's and Affiliated Fund's outstanding investment in the security in question immediately preceding the Follow-On Investment using the most recent available valuation thereof. To the extent that a Follow-On Investment opportunity relates to an opportunity to invest in a security that is not in respect of any security held by any of the participating Regulated Funds or Affiliated Funds, proportionality will be measured by each participating Regulated Fund's and Affiliated Fund's outstanding investment in the issuer immediately preceding the Follow-On Investment using the most recent available valuation thereof.

then the Follow-On Investment opportunity will be allocated among them pro rata based on the size of the Internal Orders, as described in Section III.A.1.b. of the application.

(e) *Other Conditions.* The acquisition of Follow-On Investments as permitted by this Condition will be considered a Co-Investment Transaction for all purposes and subject to the other Conditions set forth in the application.

9. *Enhanced Review Follow-Ons.*

(a) *General.* If any Regulated Fund or Affiliated Fund desires to make a Follow-On Investment in an issuer that is a Potential Co-Investment Transaction and the Regulated Funds and Affiliated Funds holding investments in the issuer have not previously participated in a Co-Investment Transaction with respect to the issuer:

(i) The Adviser to each such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds securities of the portfolio company of the proposed transaction at the earliest practical time;

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to the proposed participation, including the amount of the proposed investment, by such Regulated Fund; and

(iii) the Advisers will provide to the Board of each Regulated Fund that holds an investment in the issuer all information relating to the existing investments in the issuer of the Regulated Funds and Affiliated Funds, including the terms of such investments and how they were made, that is necessary for the Required Majority to make the findings required by this Condition.

(b) *Enhanced Board Approval.* The Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority reviews the proposed Follow-On Investment both on a stand-alone basis and together with the Pre-Boarding Investments in relation to the total economic exposure and other terms and makes the determinations set forth in Condition 2(c). In addition, the Follow-On Investment may only be completed in reliance on the Order if the Required Majority of each participating Regulated Fund determines that the making and holding of the Pre-Boarding Investments were not prohibited by Section 57 (as modified by Rule 57b–1) or Rule 17d–1, as applicable. The basis for the Board's findings will be recorded in its minutes.

(c) *Additional Requirements.* The Follow-On Investment may only be completed in reliance on the Order if:

(i) *Original Investments.* All of the Affiliated Funds' and Regulated Funds' investments in the issuer are Pre-Boarding Investments;

(ii) *Advice of counsel.* Independent counsel to the Board advises that the making and holding of the investments in the Pre-Boarding Investments were not prohibited by Section 57 (as modified by Rule 57b–1) or Rule 17d–1, as applicable;

(iii) *Multiple Classes of Securities.* All Regulated Funds and Affiliated Funds that hold Pre-Boarding Investments in the issuer immediately before the time of completion of the Co-Investment Transaction hold the same security or securities of the issuer. For the purpose of determining whether the Regulated Funds and Affiliated Funds hold the same security or securities, they may disregard any security held by some but not all of them if, prior to relying on the Order, the Required Majority is presented with all information necessary to make a finding, and finds, that: (x) Any Regulated Fund's or Affiliated Fund's holding of a different class of securities (including for this purpose a security with a different maturity date) is immaterial in amount, including immaterial relative to the size of the issuer; and (y) the Board records the basis for any such finding in its minutes. In addition, securities that differ only in respect of issuance date, currency, or denominations may be treated as the same security; and

(iv) *No control.* The Affiliated Funds, the other Regulated Funds and their affiliated persons (within the meaning of Section 2(a)(3)(C) of the Act), individually or in the aggregate, do not control the issuer of the securities (within the meaning of Section 2(a)(9) of the Act).

(d) *Allocation.* If, with respect to any such Follow-On Investment:

(i) The amount of the opportunity proposed to be made available to any Regulated Fund is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments in the issuer or the security at issue, as appropriate, immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Advisers to be invested in the Follow-On Investment by the participating Regulated Funds and any participating Affiliated Funds, collectively, exceeds the amount of the investment opportunity, then the Follow-On Investment opportunity will be allocated among them pro rata based on the size of the Internal Orders, as described in Section III.A.1.b. of the application.

(e) *Other Conditions.* The acquisition of Follow-On Investments as permitted by this Condition will be considered a Co-Investment Transaction for all purposes and subject to the other Conditions set forth in the application.

10. *Board Reporting, Compliance and Annual Re-Approval.*

(a) Each Adviser to a Regulated Fund will present to the Board of each Regulated Fund, on a quarterly basis, and at such other times as the Board may request, (i) a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or any of the Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria that were not made available to the Regulated Fund, and an explanation of why such investment opportunities were not made available to the Regulated Fund; (ii) a record of all Follow-On Investments in and Dispositions of investments in any issuer in which the Regulated Fund holds any investments by any Affiliated Fund or other Regulated Fund during the prior quarter; and (iii) all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Independent Directors may determine whether all Potential Co-Investment Transactions and Co-Investment Transactions during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the Conditions.

(b) All information presented to the Regulated Fund's Board pursuant to this Condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

(c) Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and Conditions of the application and the procedures established to achieve such compliance. In the case of a BDC Downstream Fund that does not have a chief compliance officer, the chief

compliance officer of the BDC that controls the BDC Downstream Fund will prepare the report for the relevant Independent Party.

(d) The Independent Directors (including the non-interested members of each Independent Party) will consider at least annually whether continued participation in new and existing Co-Investment Transactions is in the Regulated Fund's best interests.

11. *Record Keeping.* Each Regulated Fund will maintain the records required by Section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these Conditions were approved by the Required Majority under Section 57(f).

12. *Director Independence.* No Independent Director of a Regulated Fund (including the non-interested members of any Independent Party) will also be a director, general partner, managing member or principal, or otherwise be an ''affiliated person'' (as defined in the Act) of any Affiliated Fund.

13. *Expenses.* The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective advisory agreements with the Regulated Funds and the Affiliated Funds, be shared by the Regulated Funds and the participating Affiliated Funds in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

14. *Transaction Fees.*[29] Any transaction fee (including break-up, structuring, monitoring or commitment fees but excluding brokerage or underwriting compensation permitted by Section 17(e) or 57(k)) received in connection with any Co-Investment Transaction will be distributed to the participants on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in Section 26(a)(1), and the account will earn a competitive rate of interest that will also be divided pro rata among the participants. None of the Advisers, the Affiliated Funds, the other Regulated Funds or any affiliated person of the Affiliated Funds or the Regulated Funds will receive any additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction other than (i) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in Condition 2(c)(iii)(B)(z), (ii) brokerage or underwriting compensation permitted by Section 17(e) or 57(k) or (iii) in the case of the Advisers, investment advisory compensation paid in accordance with investment advisory agreements between the applicable Regulated Fund(s) or Affiliated Fund(s) and its Adviser.

15. *Independence.* If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares in the same percentages as the Regulated Fund's other shareholders (not including the Holders) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01292 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[29] Applicants are not requesting and the Commission is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34474; 812–15264]

Catholic Responsible Investments Funds and Christian Brothers Investment Services, Inc.; Notice of Application

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: Catholic Responsible Investments Funds (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series (each a ''Fund'') and Christian Brothers Investment Services, Inc. (the ''Adviser''), an Illinois corporation that is registered as an investment adviser under the Investment Advisers Act of 1940 (collectively with the Trust, the ''Applicants'').

FILING DATES: The application was filed on September 20, 2021, and amended on December 27, 2021.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 14, 2022, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: The Trust, *mbeattie@seic.com*, and the Adviser, *jmccroy@cbisonline.com* (with a copy to *sean.graber@morganlewis.com_and_mrenetzky@lockelord.com*).

FOR FURTHER INFORMATION CONTACT: Adam R. Bolter, Senior Counsel, at (202) 674–8049, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to each Sub-Advised Fund pursuant to an investment advisory agreement with the Trust (the ''Investment Management Agreement'').[1] Under the terms of each Investment Management Agreement, the Adviser, subject to the supervision of the board of trustees of the Trust (the ''Board'') will provide continuous investment management of the assets of each Sub-Advised Fund. Consistent with the terms of each Investment Management Agreement, the Adviser may, subject to the approval of the Board, delegate portfolio management responsibilities of all or a portion of the assets of a Sub-Advised Fund to one or more Sub-Advisers.[2] The Adviser will continue to have overall responsibility for the management and investment of the assets of each Sub-Advised Fund. The Adviser will evaluate, select and recommend Sub-Advisers to manage the assets of a Sub-Advised Fund and will oversee, monitor, and review the Sub-Advisers and their performance and recommend the removal or replacement of Sub-Advisers.

2. Applicants request an order to permit the Adviser, subject to Board approval, to enter into investment sub-advisory agreements with the Sub-Advisers (each, a ''Sub-Advisory Agreement'') and materially amend such Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[3] Applicants also seek an exemption from the Disclosure Requirements to permit a Sub-Advised Fund to disclose (as both a dollar amount and a percentage of the Sub-Advised Fund's net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Adviser; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, ''Aggregate Fee Disclosure'').

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Sub-Advised Fund shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Sub-Advised Fund's shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval while the role of the Sub-Advisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Sub-Advised Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Sub-Advised Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Dated: January 19, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01293 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[1] Applicants request relief with respect to the named Applicants, including the Existing Funds, as well as to any future series of the Trust and any other registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser or its successors (each, an ''Adviser''); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions set forth in the application (each, a ''Sub-Advised Fund''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] A ''Sub-Adviser'' for a Sub-Advised Fund is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Sub-Advised Fund, or (2) a sister company of the Adviser for that Sub-Advised Fund that is an indirect or direct ''wholly-owned subsidiary'' of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Sub-Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (3) not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Sub-Advised Fund, the Trust, or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Sub-Advised Fund (''Non-Affiliated Sub-Adviser'').

[3] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Sub-Advised Fund or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Sub-Advised Funds (''Affiliated Sub-Adviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93989; File No. SR–BX–2022–001]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BX Pricing Schedule at Options 7, Section 2

January 18, 2022.

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 January 3, 2022, Nasdaq BX, Inc. (''BX'' or ''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 proposes to amend the BX Pricing Schedule at Options 7, Section 2, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the BX Pricing Schedule at Options 7, Section 2.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Specifically, the Exchange proposes to: (1) Increase the Taker Fees in Penny Symbols for all market participants except Customers [4] from $0.46 to $0.50 per contract, (2) increase the Customer Taker Fee in SPY from $0.26 to $0.31 per contract, and (3) remove the higher Maker Rebate of $0.42 per contract currently offered to Lead Market Makers [5] and Market Makers [6] for IWM, GLD, SLV, and TSLA.

Penny Taker Fee

Today, the Exchange charges LMM, Market Maker, Non-Customer,[7] Firm,[8] and Customer orders in Penny Symbols a Taker Fee of $0.46 per contract. For Customer orders in SPY, the Exchange charges a reduced Taker Fee of $0.26 per contract.

The Exchange now proposes to increase the Penny Taker Fees for all market participants except Customers from $0.46 to $0.50 per contract. The Exchange also proposes to increase the Customer Taker Fee in SPY from $0.26 to $0.31 per contract.

Penny Maker Rebate

The Exchange currently offers LMMs and Market Makers a Maker Rebate in Penny Symbols that is $0.29 per contract (LMMs) and $0.25 per contract (Market Makers). For AAPL, IWM, GLD, QQQ, SLV, and TSLA, both LMMs and Market Makers are currently offered a higher Maker Rebate of $0.42 per contract.

The Exchange now proposes to remove IWM, GLD, SLV, and TSLA from the list of Penny Symbols eligible to receive the higher $0.42 per contract Maker Rebate. While the Exchange will no longer offer the higher rebate for IWM, GLD, SLV, and TSLA, Participants will still receive the Penny Maker Rebate in these Penny Symbols, albeit at a lower rate of $0.29 per contract (for LMMs) and $0.25 per contract (for Market Makers). Furthermore, LMMs and Market Makers will continue to be provided the higher $0.42 Maker Rebate for AAPL and QQQ orders under this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [11]

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, while adopting a series of steps to improve the current market model, 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.'' [12]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Penny Taker Fee

The Exchange believes that its proposal to increase the Penny Taker Fees for all market participants except Customers from $0.46 to $0.50 per contract is reasonable. While the Penny Taker Fees are increasing in this manner, the Exchange believes that its fees remain competitive with other options exchanges.[13] Accordingly, the Exchange believes that the proposed fees will continue to attract order flow to BX to the benefit of all market participants. The Exchange further believes that increasing the Penny Taker Fees from $0.46 to $0.50 per contract is equitable and not unfairly discriminatory because the proposed changes will apply uniformly to all similarly situated Participants.

The Exchange believes that its proposal to increase the Customer Taker Fee in SPY from $0.26 to $0.31 per contract is reasonable. While the Customer Taker Fee in SPY is increasing, Customers will continue to receive favorable pricing compared to all other market participants on BX. In particular, no other market participants except Customers are currently eligible to receive this reduced Taker Fee in SPY. These market participants are instead assessed the Penny Taker Fee of $0.46 per contract today (which is increasing to $0.50 per contract under this proposal). The Exchange believes that offering the reduced Taker Fee in

[4] The term ''Customer'' or (''C'') applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(a)(48)).

[5] The term ''Lead Market Maker'' or (''LMM'') applies to a registered BX Options Market Maker that is approved pursuant to Options 2, Section 3 to be the LMM in an options class (options classes).

[6] The term ''BX Options Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security.

[7] The term ''Non-Customer'' shall include a Professional, Broker-Dealer and Non-BX Options Market Maker.

[8] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[12] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] For example, Nasdaq MRX, LLC (''MRX'') currently charges all market participants except Priority Customers a Penny Taker Fee of $0.50 per contract. *See* MRX Options 7, Section 3. In addition, NYSE Arca Options similarly charges all market participants except Customers a take liquidity fee in Penny Issues of $0.50 per contract. *See* NYSE Arca Options Fees and Charges, Transaction Fee for Electronic Executions—Per Contract.

SPY of $0.31 per contract to Customers is equitable and not unfairly discriminatory because the proposed pricing will apply uniformly to all similarly situated Participants. Customer liquidity benefits all market participants by providing more trading opportunities which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads and may cause an additional corresponding increase in order flow from other market participants.

Penny Maker Rebate

The Exchange believes that its proposal to remove IWM, GLD, SLV, and TSLA from the list of Penny Symbols eligible to receive the higher $0.42 per contract Maker Rebate is reasonable. While the Exchange will no longer offer the higher rebate, Participants will still receive a Maker Rebate in these Penny Symbols, albeit at a lower rate of $0.29 per contract (for LMMs) and $0.25 per contract (for Market Makers). Other than the $0.30 Penny Maker Rebate currently provided to Customers, these are still the highest Penny Maker Rebates provided to market participants today.[14] Accordingly, the Exchange believes that its rebate program for Penny Symbols will remain attractive for LMMs and Market Makers, and will continue to attract order flow to BX to the benefit of all market participants.

The Exchange believes that its proposal is equitable and not unfairly discriminatory as the changes will apply uniformly to all similarly situated Participants. With the proposed changes, the Exchange will still provide LMMs and Market Makers some of the highest Penny Maker Rebates in IWM, GLD, SLV, and TSLA compared to other market participants.[15] Further, the Exchange believes that offering more favorable pricing for LMMs and Market Makers is equitable and not unfairly discriminatory. Unlike other market participants, LMMs and Market Makers add value through continuous quoting and the commitment of capital. As it relates to the higher Penny Maker Rebate provided to LMMs compared to Market Makers, the Exchange believes that this differentiation is equitable and not unfairly discriminatory given that LMMs are subject to heightened quoting obligations compared to Market Makers.[16] The higher rebate therefore recognizes the differing contributions made to the liquidity and trading environment on the Exchange by LMMs. Overall, the Exchange believes that incentivizing both LMMs and Market Makers to provide greater liquidity benefits all market participants through the quality of order interaction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In terms of intra-market competition, all pricing would be uniformly assessed to similarly situated market participants. Customers will continue to receive favorable pricing as compared to other market participants because Customer liquidity enhances market quality on the Exchange by providing more trading opportunities, which benefits all market participants. Furthermore, the proposed changes to the Penny Maker Rebate program for LMMs and Market Makers are designed to incentivize these market participants to provide greater liquidity, which benefits all market participants through the quality of order interaction.

In terms of inter-market competition, the Exchange believes that with the proposed changes, its pricing remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other options exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Participants or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2022–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2022–001. 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

[14] As a comparison, Non-Customers and Firms are currently provided a Penny Maker Rebate of $0.12 per contract.

[15] *See supra* note 13 with accompanying text.

[16] *See* Options 2, Section 4(j) (setting forth the 90% or higher quoting obligations for LMMs) and Section 5(d) (setting forth the 60% or higher quoting obligations for Market Makers).

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2022–001, and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01221 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93991; SR–CboeEDGX–2022–003]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 20.6 To Improve the Operation of the Rule

January 18, 2022.

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 January 11, 2022, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to amend Rule 20.6 to improve the operation of the Rule. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe EDGX Exchange, Inc.

* * * * *

Rule 20.6. Nullification and Adjustment of Option Transactions Including Obvious Errors

* * * * *

(b) *Theoretical Price.* Upon receipt of a request for review and prior to any review of a transaction execution price, the ''Theoretical Price'' for the option must be determined. For purposes of this Rule, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last NBB just prior to the trade in question with respect to an erroneous sell transaction or the last NBO just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions in sub-paragraphs (b)(1) through (3) below exists. For purposes of this provision, when a single order received by the Exchange is executed at multiple price levels, the last NBB and last NBO just prior to the trade in question would be the last NBB and last NBO just prior to the Exchange's receipt of the order. The Exchange will rely on this paragraph (b) and Interpretation and Policy .03 of this Rule when determining Theoretical Price.

(1)–(2) No change.

(3) *Wide Quotes.*

(A) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the erroneous transaction was equal to or greater than the Minimum Amount set forth below and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction. If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction then the Theoretical Price of an option series is the last NBB or NBO just prior to the transaction in question, as set forth in paragraph (b) above.

Bid price at time of trade	Minimum amount
Below $2.00	$0.75
$2.00 to $5.00	1.25
Above $5.00 to $10.00	1.50
Above $10.00 to $20.00	2.50
Above $20.00 to $50.00	3.00
Above $50.00 to $100.00	4.50
Above $100.00	6.00

[4] 17 CFR 240.19b–4(f)(6).

(B) Customer Transactions Occurring Within 10 Seconds or Less After an Opening or Reopening

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an opening or reopening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to subparagraph (A) above.

(c) *Obvious Errors*

(1)–(3) No change.

(4) *Adjust or Bust.* If it is determined that an Obvious Error has occurred, the Exchange shall take one of the actions listed below. Upon taking final action, the Exchange shall promptly notify both parties to the trade electronically or via telephone.

(A) No change.

(B) *Customer Transactions.* Where at least one party to the Obvious Error is a Customer, *the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in subparagraph (a)(4) above. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,* the trade will be nullified, subject to sub-paragraph (C) below.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend Rule 20.6, ''Nullification and Adjustment of Options Transactions including Obvious Errors,'' to improve the operation of the Rule. Following discussions with other exchanges and a cross-section of industry participants and in coordination with the Listed Options Market Structure Working Group (''LOMSWG'') (collectively, the ''Industry Working Group''), the Exchange proposes: (1) To amend subsection (b)(3) of Rule 20.6 to permit the Exchange to determine the Theoretical Price of a Customer option transaction in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening; and (2) to amend subsection (c)(4)(B) of Rule 20.6 to adjust, rather than nullify, Customer transactions in Obvious Error situations, provided the adjustment does not violate the limit price. The Commission recently approved an identical proposed rule change of NYSE Arca, LLC (''NYSE Arca'').[5] The Exchange understands that other options exchanges will also submit substantively identical proposals to the Commission.

Proposed Change to Subsection (b)(3)

Rule 20.6 has been part of various harmonization efforts by the Industry Working Group.[6] These efforts have often centered around the Theoretical Price for which an options transaction should be compared to determine whether an Obvious Error has occurred. For instance, all options exchanges have adopted language comparable to Rule 20.6, Interpretation and Policy .03,[7] which explains how an exchange is to determine Theoretical Price at the open, when there are no valid quotes, and when there is a wide quote. This includes at times the use of a singular third-party vendor, known as a TP Provider (currently CBOE Livevol, LLC).

Similarly, subsection (b)(3) of Rule 20.6 was previously harmonized across all options exchanges to handle situations where executions occur in markets that are wide (as set forth in the Rule).[8] Under that subsection, the Exchange determines the Theoretical Price if the NBBO for the subject series is wide immediately before execution and a narrow market (as set forth in the Rule) existed ''during the 10 seconds prior to the transaction.'' The Rule goes on to clarify that, should there be no narrow quotes ''during the 10 seconds prior to the transaction,'' the Theoretical Price for the affected series is the NBBO that existed at the time of execution (regardless of its width).

In recent discussions, the Industry Working Group has identified proposed changes to subsection (b)(3) of Rule 20.6 that the Industry Working Group believes would improve the Rule's functioning. Currently, subsection (b)(3) does not permit the Exchange to determine the Theoretical Price unless there is a narrow quote 10 seconds prior to the transaction. However, in the first seconds of trading, there is no 10-second period ''prior to the transaction.'' Further, the Industry Working Group has observed that prices in certain series can be disjointed at the start of trading. Accordingly, the Exchange proposes to provide additional protections to trading in certain circumstances immediately after the opening before liquidity has had a chance to enter the market. The Exchange proposes to amend subsection (b)(3) to allow the Exchange to determine the Theoretical Price in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening.

Specifically, the Exchange proposes that the existing text of subsection (b)(3) would become subparagraph ''(A).'' The Exchange proposes to add the following heading and text as subparagraph ''(B)'':

(B) Customer Transactions Occurring Within 10 Seconds or Less After an Opening or Reopening

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an opening or reopening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to subparagraph (A) above.

The following examples illustrate the functioning of the proposed rule change. Consider that the NBBO of a series opens as $0.01 at $4.00. A marketable limit order to buy one contract arrives one second later and is executed at $4.00. In the third second of trading, the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within the 10 seconds prior to execution. Accordingly, under the current rule, the trade would not qualify for obvious error review, in part due to the fact that there was only a single second of trading before the execution. Under the proposal, since a tight market existed at some point in the first 10 seconds of trading (*i.e.,* in the third second), the Exchange would be able to determine the Theoretical Price as provided in Interpretation and Policy .03.

As another example, the NBBO for a series opens as $0.01 at $4.00. In the seventh second of trading, a marketable limit order is received to buy one contract and is executed at $4.00. Five seconds later (*i.e.,* in the twelfth second of trading), the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While

[5] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[6] *See* Securities Exchange Act Release No. 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18) (Exchange Rule 20.6 initially adopted as identical to Cboe BZX Exchange, Inc. Rule 20.6, previously amended by Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067)).

[7] *See* Securities Exchange Act Release No. 81515 (August 31, 2017), 82 FR 42382 (September 7, 2017) (SR–BatsEDGX–2017–36).

[8] *See* Securities Exchange Act Release No. 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18) (Exchange Rule 20.6 initially adopted as identical to Cboe BZX Exchange, Inc. Rule 20.6, previously amended by Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067)).

the execution occurred in a market with wide widths, there was no tight market within 10 seconds prior to execution. Accordingly, under the current Rule, the trade would not qualify for obvious error review. Under the proposal, since no tight market existed at any point during the first 10 seconds of trading (*i.e.,* the narrow market occurred in the twelfth second), the trade would not qualify for obvious error review.

The proposed rule change would also better harmonize subsection (b)(3) with subsection (b)(1) of Rule 20.6. Under subsection (b)(1), the Exchange is permitted to determine the Theoretical Price for transactions occurring as part of the Opening Process (as defined in Rule 21.7) if there is no NBB or NBO for the affected series just prior to the erroneous transaction. However, under the current version of subsection (b)(3), a core trading transaction could occur in the same wide market but the Exchange would not be permitted to determine the Theoretical Price. Consider an example where, one second after the Exchange opens a selected series, the NBBO is $1.00 at $5.00. At 9:30:03, a customer submits a marketable buy order to the Exchange and pays $5.00. At 9:30:03, a different exchange runs an opening auction that results in a customer paying $5.00 for the same selected series. At 9:30:06, the NBBO changes from $1.00 at $5.00 to $1.35 at $1.45. Under the current version of subsection (b)(3), the Exchange would not be able to determine the Theoretical Price for the trade occurring during core trading. However, the trade on the other exchange could be submitted for review under subsection (b)(1) and that exchange would be able to determine the Theoretical Price. If the proposed change to subsection (b)(3) were approved, both of the trades occurring at 9:30:03 (on the Exchange during core trading and on another exchange via auction) would also be entitled to the same review regarding the same Theoretical Price based upon the same time.

The proposal would not change any obvious error review beyond the first 10 seconds of an opening or re-opening.

Proposed Change to Subsection (c)(4)(B)

The Exchange proposes to amend subsection (c)(4)(B) of Rule 20.6—the ''Adjust or Bust'' rule for Customer transactions in Obvious Error situations—to adjust rather than nullify such orders, provided the adjustment does not violate the Customer's limit price. Currently, the Rule provides that in Obvious Error situations, transactions involving non-Customers should be adjusted, while transactions involving Customers are nullified, unless a certain condition applies.[9] The Industry Working Group has concluded that the treatment of these transactions should be harmonized under the Rule, such that transactions involving Customers may benefit from adjustment, just as non-Customer transactions currently do, except where such adjustment would violate the Customer's limit price; in that instance, the trade would be nullified.

Specifically, the Exchange proposes to amend the text of subsection (c)(4)(B) to add that where at least one party to the Obvious Error is a Customer, ''the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in subparagraph (a)(4) of the Rule. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,'' the trade will be nullified. The ''table immediately above'' referenced in the proposed text refers to the table at current subsection (c)(4)(A), which provides for the adjustment of prices a specified amount away from the Theoretical Price, rather than adjusting the Theoretical Price.

The Exchange proposes no other changes at this time.

Implementation Date

The Exchange will announce the operative date of the proposed changes to Members via notice with appropriate advanced notice, which will be posted on the Exchange's website. The proposed changes will become operative no sooner than six months from the date the Commission approved the identical NYSE Arca filing[10] in order for the Exchange's implementation of the proposed rule changes to coincide with the implementation of the same changes on all other options exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed change to subsection (b)(3) of Rule 20.6 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest because it provides a method for addressing Obvious Error Customer transactions that occur in a wide market at the opening of trading. Generally, a wide market is an indication of a lack of liquidity in the market such that the market is unreliable. Current subsection (b)(3) recognizes that a persistently wide quote (*i.e.,* more than 10 seconds) should be considered the reliable market regardless of its width but does not address transactions that occur in a wide market in the first seconds of trading, where there is no preceding 10-second period to reference. Accordingly, in the first 10 seconds of trading, there is no opportunity for a wide quote to have persisted for a sufficiently lengthy period such that the market should consider it a reliable market for the purposes of determining an Obvious Error transaction.

The proposed change would rectify this disparity and permit the Exchange to consider whether a narrow quote is present at any time during the 10-second period after an opening or re-opening. The presence of such a narrow quote would indicate that the market has gained sufficient liquidity and that the previous wide market was unreliable, such that it would be appropriate for the Exchange to

[9] Specifically, the current Rule provides at subsection (c)(4)(C) that if a TPH has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of two minutes or less, where at least one party to the Obvious Error is a non-Customer, then the Exchange will apply the non-Customer adjustment criteria found in subsection (c)(4)(A).

[10] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

determine the Theoretical Price of an Obvious Error transaction. In this way, the proposed rule harmonizes the treatment of Customer transactions that execute in an unreliable market at any point of the trading day, by making them uniformly subject to Exchange determination of the Theoretical Price.

The Exchange believes that the proposed change to subsection (c)(4)(B) of the Rule would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by harmonizing the treatment of non-Customer transactions and Customer transactions under the Rule. Under the current Rule, Obvious Error situations involving non-Customer transactions are adjusted, while those involving Customer transactions are generally nullified, unless they meet the additional requirements of subsection (c)(4)(C) (*i.e.,* where a TPH has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of two minutes or less). The proposal would harmonize the treatment of non-Customer and Customer transactions by providing for the adjustment of all such transactions, except where such adjustment would violate the Customer's limit price.

When it proposed the current rule in 2015, the Exchange believed there were sound reasons for treating non-Customer transactions and Customer transactions differently. At the time, the Exchange stated its belief that ''Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts,'' and that nullifying Obvious Error transactions involving Customers would give Customers ''greater protections'' than adjusting such transactions by eliminating the possibility that a Customer's order will be adjusted to a significantly different price. The Exchange also noted its belief that ''Customers are . . . less likely to have engaged in significant hedging or other trading activity based on earlier transactions, and thus, are less in need of maintaining a position at an adjusted price than non-Customers.'' [14]

Those assumptions about Customer trading and hedging activity no longer hold. The Exchange and the Industry Working Group believe that over the course of the last five years, Customers that use options have become more sophisticated, as retail broker-dealers have enhanced the trading tools available. Pursuant to OCC data, volumes clearing in the Customer range have expanded from 12,022,163 ADV in 2015 to 35,081,130 ADV in 2021. This increase in trading activity underscores the greater understanding of options by Customers as a trading tool and its use in the markets. Customers who trade options today largely are more educated, have better trading tools, and have better access to financial news than any time prior.[15] The proposed rule would extend the hedging protections currently enjoyed by non-Customers to Customers, by allowing them to maintain an option position at an adjusted price, which would in turn prevent a cascading effect by maintaining the hedge relationship between the option transaction and any other transactions in a related security.

The Exchange believes that extending such hedging protections to Customer transactions would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by providing greater certainty of execution for all participants to options transactions. Under the current Rule, a Customer that believes its transaction was executed pursuant to an Obvious Error may be disincentivized from submitting the transaction for review, since during the review process, the Customer would be uncertain whether the trade would be nullified, and if so, whether market conditions would still permit the opportunity to execute a related order at a better price after the nullification ruling is finalized. In contrast, under the proposed rule, the Customer would know that the only likely outcomes of submitting a trade to Obvious Error review would be that the trade would stand or be re-executed at a better price; the trade would only be nullified if the adjustment would violate the order's limit. Similarly, under the current Rule, during the review period, a market maker who traded contra to the Customer would be uncertain if it should retain any position executed to hedge the original trade, or attempt to unwind it, possibly at a significant loss. Under the proposed rule change, this uncertainty is largely eliminated, and the question would be whether the already executed and hedged trade would be adjusted to a better price for the Customer, or if it would stand as originally executed. In this way, the proposed rule enhances the protection of investors and removes impediments to and perfects the mechanism of a free and open market and a national market system.

The proposed rule also addresses the concern the Exchange cited in its 2015 filing that adjusting, rather than nullifying, Customer transactions could lead to a Customer's order being adjusted to a significantly different price. To address that concern, the proposed rule would prevent Customer transactions from being adjusted to a price that violates the order's limit; if the adjustment would violate a Customer's limit, the trade would instead be nullified. The Exchange believes it is in the best interest of investors to expand the availability of adjustments to Customer transactions in all Obvious Error situations except where the adjustment would violate the Customer's limit price.

Further, the Exchange believes that, with respect to such proposed adjustments to Customer transactions, it is appropriate to use the same form of adjustment as is currently in place with respect to non-Customer transactions as laid out in the table in subsection (c)(4)(A). That is, the Exchange believes that it is appropriate to adjust to prices a specified amount away from the Theoretical Price rather than to adjust the Theoretical Price, even though the Exchange has determined a given trade to be erroneous in nature, because the parties in question should have had some expectation of execution at the price or prices submitted. Also, it is common that by the time it is determined that an Obvious Error has occurred, additional hedging and trading activity has already occurred based on the executions that previously happened. The Exchange believes that providing an adjustment to the Theoretical Price in all cases would not appropriately incentivize market participants to maintain appropriate controls to avoid potential errors, while adjusting to prices a specified amount away from the Theoretical Price would incentivize such behavior.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change to subsection (b)(3) would apply to all instances of a wide market occurring within the first

[14] *See* Securities Exchange Act Release No. 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18) (Exchange Rule 20.6 initially adopted as identical to Cboe BZX Exchange, Inc. Rule 20.6, previously amended by Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067)).

[15] *See* ''Retail Traders Adopt Options En Masse'' by Dan Raju, *available at https://www.nasdaq.com/articles/retail-traders-adopt-options-en-masse-2020-12-08.*

10 seconds of trading followed by a narrow market at any point in the subsequent 10-second period, regardless of the types of market participants involved in such transactions. The proposed change to subsection (c)(4)(B) would harmonize the treatment of Obvious Error transactions involving Customers and non-Customers, no matter what type of market participants those parties may be.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is identical to a NYSE Arca proposed rule change recently approved by the Commission.[16] The Exchange anticipates that the other options exchanges will adopt substantively similar proposals, such that there would be no burden on intermarket competition from the Exchange's proposal. Accordingly, the proposed change is not meant to affect competition among the options exchanges. For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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[17] and Rule 19b–4(f)(6)[18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2022–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2022–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2022–003 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01223 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[16] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93986; File No. SR–Phlx–2022–01]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Phlx's Pricing Schedule at Options 7, Section 3

January 18, 2022.

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 January 3, 2022, Nasdaq PHLX LLC (''Phlx'' or ''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 proposes to amend Phlx's Pricing Schedule at Options 7, Section 3, ''Rebates and Fees for Adding and Removing Liquidity in SPY.'' The Exchange also proposes to remove obsolete rule text within Options 7, Section 9, ''Other Member Fees.''

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend its pricing at Options 7, Section 3, ''Rebates and Fees for Adding and Removing Liquidity in SPY.'' Specifically, Phlx proposes to amend its Simple Order Customer [4] Fee for Removing Liquidity in options overlying the SPDR® S&P 500 ETF Trust (''SPY''). The Exchange also proposes to remove obsolete rule text within Options 7, Section 9, ''Other Member Fees.'' Each change will be described below.

Options 7, Section 3

Today, the Exchange assesses a $0.38 per contract Customer Simple Order Fee for Removing Liquidity in SPY. The Exchange assesses a Lead Market Maker,[5] Market Maker,[6] Firm,[7] Broker-Dealer [8] and Professional [9] Simple Order Fee for Removing Liquidity in SPY of $0.48 per contract. The Exchange proposes to increase the Customer Simple Order Fee for Removing Liquidity in SPY from $0.38 to $0.41 per contract. Notwithstanding the increase, the Customer Simple Order Fee for Removing Liquidity in SPY remains the lowest fee for removing liquidity in SPY. The Exchange believes that the Customer Simple Order Fee for Removing Liquidity in SPY will continue to attract order flow to the Exchange despite the increase.

Options 7, Section 9

The Exchange proposes to remove obsolete rule text within Options 7, Section 9.B, Port Fees. Options 7, Section 9.B refers to a technology infrastructure migration that occurred in 2019. The rule text related to the migration is now obsolete. At this time, the Exchange proposes to remove the rule text which describes the migration within Options 7, Section 9.B because it is outdated.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [12]

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, while adopting a series of steps to improve the current market model, 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.'' [13]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

[4] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(b)(45)). *See* Options 7, Section 1(c).

[5] The term ''Lead Market Maker'' applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Rule Options 2, Section 12(a)[sic]. An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11.

[6] The term ''Market Maker'' is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as on and Floor Market Makers.

[7] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

[8] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[9] The term ''Professional'' applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(43) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[13] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

Options 7, Section 3

The Exchange's proposal to increase the Customer Simple Order Fee for Removing Liquidity in SPY from $0.38 to $0.41 per contract is reasonable. Notwithstanding the increase, the Customer Simple Order Fee for Removing Liquidity in SPY remains the lowest fee for removing liquidity in SPY. The Exchange believes that the Customer Simple Order Fee for Removing Liquidity in SPY will continue to attract order flow to the Exchange despite the increase.

The Exchange's proposal to increase the Customer Simple Order Fee for Removing Liquidity in SPY from $0.38 to $0.41 per contract is equitable and not unfairly discriminatory. Priority Customers continue to be assessed the lowest Simple Order Fee for Removing Liquidity in SPY. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Options 7, Section 9

The Exchange's proposal to remove obsolete rule text within Options 7, Section 9.B, Port Fees is reasonable, equitable and not unfairly discriminatory. Options 7, Section 9.B refers to a technology infrastructure migration that occurred in 2019. The rule text related to the migration is outdated and would not apply to any Phlx market participant.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The proposed amendments do not impose an undue burden on intra-market competition.

Options 7, Section 3

The Exchange's proposal to increase the Customer Simple Order Fee for Removing Liquidity in SPY from $0.38 to $0.41 per contract does not impose an undue burden on competition. Priority Customers continue to be assessed the lowest Simple Order Fee for Removing Liquidity in SPY. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Options 7, Section 9

The Exchange's proposal to remove obsolete rule text within Options 7, Section 9.B, Port Fees does not impose an undue burden on competition. The rule text related to the migration is outdated and would not apply to any Phlx market participant.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–Phlx–2022–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2022–01. 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–Phlx–2022–01, and should be submitted on or before February 14, 2022.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01218 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93992; File No. SR–NYSE–2022–01]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Extend a Waiver of New Firm Application Fees for Certain Applications and of Bond Trading License Fees

January 18, 2022.

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 January 4, 2022, 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.

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 (1) extend a fee waiver for new firm application fees for applicants seeking only to obtain a bond trading license (''BTL'') for 2022; and (2) waive the BTL fee for 2022. The Exchange proposes to implement the fee changes effective January 3, 2022. 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 (1) extend a fee waiver for new firm application fees for applicants seeking only to obtain a BTL for 2022; and (2) waive the BTL fee for 2022.[4] The Exchange proposes to implement the fee changes effective January 3, 2022.

The Exchange currently charges a New Firm Fee ranging from $2,000 to $4,000, depending on the type of firm, which is charged per application for any broker-dealer that applies to be approved as an Exchange member organization. The Exchange proposes to amend the Price List to waive the New Firm Fee for 2022 for new member organization applicants that are seeking only to obtain a BTL and not trade equities at the Exchange. The proposed waiver of the New Firm Fee would be available only to applicants seeking approval as a new member organization, including carrying firms, introducing firms, or non-public organizations, which would be seeking to obtain a BTL at the Exchange and not trade equities. Further, if a new firm that is approved as a member organization and has had the New Firm Fee waived converts a BTL to a full trading license within one year of approval, the New Firm Fee would be charged in full retroactively. The Exchange believes that charging the New Firm Fee retroactively within a year of approval is appropriate because it would discourage applicants to claim that they are applying for a BTL solely to avoid New Firm Fees.

Additionally, the Exchange currently charges a BTL fee of $1,000 per year. The Exchange proposes to amend the Price List to waive the BTL fee for 2022 for all member organizations.

The Exchange believes that the proposed fee changes would provide increased incentives for bond trading firms that are not currently Exchange member organizations to apply for Exchange membership and a BTL. The Exchange believes that having more member organizations trading on the Exchange's bond platform would benefit investors through the additional display of liquidity and increased execution opportunities in Exchange-traded bonds at the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] 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 Exchange believes that it is reasonable to waive the New Firm Fee and the annual BTL fee for 2022 to provide an incentive for bond trading firms to apply for Exchange membership and a BTL. The Exchange believes that providing an incentive for bond trading firms that are not currently Exchange member organizations to apply for membership and a BTL would encourage market participants to become members of the Exchange and bring additional liquidity to a transparent bond market. To the extent the existing New Firm Fees or the BTL fee serves as a disincentive for bond trading firms to become Exchange member organizations, the Exchange believes that the proposed fee change could expand the number of firms eligible to trade bonds on the Exchange. The Exchange believes creating incentives for bond trading firms to trade bonds on the Exchange protects investors and the public interest by increasing the competition and liquidity on a transparent market for bond trading. The proposed waiver of the New Firm Fee and BTL fee is equitable and not unfairly discriminatory because it would be offered to all market participants that wish to trade at the Exchange the narrower class of debt securities only.

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed to adopt the fee waiver and waive the BTL fee in 2015. *See* Securities Exchange Act Release No. 74031 (January 12, 2015), 80 FR 2462 (January 16, 2015) (SR–NYSE–2014–78). The Exchange has filed to extend the fee waiver and waive the BTL fee for each calendar year since 2017. *See* Securities Exchange Act Release Nos. 79710 (December 29, 2016), 82 FR 1395 (January 5, 2017) (SR–NYSE–2016–89); 82418 (December 28, 2017), 83 FR 568 (January 4, 2018) (SR–NYSE–2017–70); 84899 (December 20, 2018), 83 FR 67395 (December 28, 2018) (SR–NYSE–2018–65); 87952 (January 13, 2020), 85 FR 3089 (January 17, 2020) (SR–NYSE–2019–73); and 90891 (January 11, 2021), 86 FR 4147 (January 15, 2021) (SR–NYSE–2021–03).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4), (5).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] 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. Debt securities typically trade in a decentralized over-the-counter (''OTC'') dealer market that is less liquid and transparent than the equities markets. The Exchange believes that the proposed change would increase competition with these OTC venues by reducing the cost of being approved as and operating as an Exchange member organization that solely trades bonds at the Exchange, which the Exchange believes will enhance market quality through the additional display of liquidity and increased execution opportunities in Exchange-traded bonds at the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues that are not transparent. In such an environment, the Exchange must continually review, and consider adjusting its fees and rebates to remain competitive with other exchanges as well as with alternative trading systems and other venues that are not required to comply with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

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)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] 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)[10] 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 No. SR–NYSE–2022–01 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 No. SR–NYSE–2022–01. 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 No. SR–NYSE–2022–01, and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01224 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93988; SR–CboeBZX–2022–004]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 20.6 To Improve the Operation of the Rule

January 18, 2022.

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 January 11, 2022, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') proposes to amend Rule 20.6 to improve the operation of the Rule. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe BZX Exchange, Inc.

* * * * *

Rule 20.6. Nullification and Adjustment of Option Transactions Including Obvious Errors

* * * * *

(b) *Theoretical Price.* Upon receipt of a request for review and prior to any review of a transaction execution price, the ''Theoretical Price'' for the option must be determined. For purposes of this Rule, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last NBB just prior to the trade in question with respect to an erroneous sell transaction or the last NBO just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions in sub-paragraphs (b)(1) through (3) below exists. For purposes of this provision, when a single order received by the Exchange is executed at multiple price levels, the last NBB and last NBO just prior to the trade in question would be the last NBB and last NBO just prior to the Exchange's receipt of the order. The Exchange will rely on this paragraph (b) and Interpretation and Policy .03 of this Rule when determining Theoretical Price.

(1)–(2) No change.

(3) *Wide Quotes.*

(A) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the erroneous transaction was equal to or greater than the Minimum Amount set forth below and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction. If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction then the Theoretical Price of an option series is the last NBB or NBO just prior to the transaction in question, as set forth in paragraph (b) above.

Bid price at time of trade	Minimum amount
Below $2.00	$0.75
2.00 to 5.00	1.25
Above 5.00 to 10.00	1.50
Above 10.00 to 20.00	2.50
Above 20.00 to 50.00	3.00
Above 50.00 to 100.00	4.50
Above 100.00	6.00

(B) Customer Transactions Occurring Within 10 Seconds or Less After an Opening or Reopening.

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an opening or reopening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to subparagraph (A) above.

(c) *Obvious Errors*

(1)–(3) No change.

(4) *Adjust or Bust.* If it is determined that an Obvious Error has occurred, the Exchange shall take one of the actions listed below. Upon taking final action, the Exchange shall promptly notify both parties to the trade electronically or via telephone.

(A) No change.

(B) *Customer Transactions.* Where at least one party to the Obvious Error is a Customer, *the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in subparagraph (a)(4) above. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,* the trade will be nullified, subject to sub-paragraph (C) below.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend Rule 20.6, ''Nullification and Adjustment of Options Transactions including Obvious Errors,'' to improve the operation of the Rule. Following discussions with other exchanges and a cross-section of industry participants and in coordination with the Listed Options Market Structure Working Group (''LOMSWG'') (collectively, the ''Industry Working Group''), the Exchange proposes: (1) To amend subsection (b)(3) of Rule 20.6 to permit the Exchange to determine the Theoretical Price of a Customer option transaction in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening; and (2) to amend subsection (c)(4)(B) of Rule 20.6 to adjust, rather than nullify, Customer transactions in Obvious Error situations, provided the adjustment does not violate the limit price. The Commission recently approved an identical proposed rule change of NYSE Arca, LLC (''NYSE Arca'').[5] The Exchange understands that other options exchanges will also submit substantively identical proposals to the Commission.

Proposed Change to Subsection (b)(3)

Rule 20.6 has been part of various harmonization efforts by the Industry Working Group.[6] These efforts have often centered around the Theoretical Price for which an options transaction should be compared to determine whether an Obvious Error has occurred. For instance, all options exchanges have adopted language comparable to Rule 20.6, Interpretation and Policy .03,[7] which explains how an exchange is to determine Theoretical Price at the open, when there are no valid quotes, and when there is a wide quote. This

[5] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[6] *See* Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067).

[7] *See* Securities Exchange Act Release No. 81084 (July 6, 2017), 82 FR 32216 (July 12, 2017) (SR–BatsBZX–2017–35).

includes at times the use of a singular third-party vendor, known as a TP Provider (currently CBOE Livevol, LLC).

Similarly, subsection (b)(3) of Rule 20.6 was previously harmonized across all options exchanges to handle situations where executions occur in markets that are wide (as set forth in the Rule).[8] Under that subsection, the Exchange determines the Theoretical Price if the NBBO for the subject series is wide immediately before execution and a narrow market (as set forth in the Rule) existed ''during the 10 seconds prior to the transaction.'' The Rule goes on to clarify that, should there be no narrow quotes ''during the 10 seconds prior to the transaction,'' the Theoretical Price for the affected series is the NBBO that existed at the time of execution (regardless of its width).

In recent discussions, the Industry Working Group has identified proposed changes to subsection (b)(3) of Rule 20.6 that the Industry Working Group believes would improve the Rule's functioning. Currently, subsection (b)(3) does not permit the Exchange to determine the Theoretical Price unless there is a narrow quote 10 seconds prior to the transaction. However, in the first seconds of trading, there is no 10-second period ''prior to the transaction.'' Further, the Industry Working Group has observed that prices in certain series can be disjointed at the start of trading. Accordingly, the Exchange proposes to provide additional protections to trading in certain circumstances immediately after the opening before liquidity has had a chance to enter the market. The Exchange proposes to amend subsection (b)(3) to allow the Exchange to determine the Theoretical Price in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening.

Specifically, the Exchange proposes that the existing text of subsection (b)(3) would become subparagraph ''(A).'' The Exchange proposes to add the following heading and text as subparagraph ''(B)'':

(B) *Customer Transactions Occurring Within 10 Seconds or Less After an Opening or Reopening.*

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in subparagraph (A) above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an opening or reopening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to subparagraph (A) above.

The following examples illustrate the functioning of the proposed rule change. Consider that the NBBO of a series opens as $0.01 at $4.00. A marketable limit order to buy one contract arrives one second later and is executed at $4.00. In the third second of trading, the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within the 10 seconds prior to execution. Accordingly, under the current rule, the trade would not qualify for obvious error review, in part due to the fact that there was only a single second of trading before the execution. Under the proposal, since a tight market existed at some point in the first 10 seconds of trading (*i.e.,* in the third second), the Exchange would be able to determine the Theoretical Price as provided in Interpretation and Policy .03.

As another example, the NBBO for a series opens as $0.01 at $4.00. In the seventh second of trading, a marketable limit order is received to buy one contract and is executed at $4.00. Five seconds later (*i.e.,* in the twelfth second of trading), the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within 10 seconds prior to execution. Accordingly, under the current Rule, the trade would not qualify for obvious error review. Under the proposal, since no tight market existed at any point during the first 10 seconds of trading (*i.e.,* the narrow market occurred in the twelfth second), the trade would not qualify for obvious error review.

The proposed rule change would also better harmonize subsection (b)(3) with subsection (b)(1) of Rule 20.6. Under subsection (b)(1), the Exchange is permitted to determine the Theoretical Price for transactions occurring as part of the Opening Process (as defined in Rule 21.7) if there is no NBB or NBO for the affected series just prior to the erroneous transaction. However, under the current version of subsection (b)(3), a core trading transaction could occur in the same wide market but the Exchange would not be permitted to determine the Theoretical Price. Consider an example where, one second after the Exchange opens a selected series, the NBBO is $1.00 at $5.00. At 9:30:03, a customer submits a marketable buy order to the Exchange and pays $5.00. At 9:30:03, a different exchange runs an opening auction that results in a customer paying $5.00 for the same selected series. At 9:30:06, the NBBO changes from $1.00 at $5.00 to $1.35 at $1.45. Under the current version of subsection (b)(3), the Exchange would not be able to determine the Theoretical Price for the trade occurring during core trading. However, the trade on the other exchange could be submitted for review under subsection (b)(1) and that exchange would be able to determine the Theoretical Price. If the proposed change to subsection (b)(3) were approved, both of the trades occurring at 9:30:03 (on the Exchange during core trading and on another exchange via auction) would also be entitled to the same review regarding the same Theoretical Price based upon the same time.

The proposal would not change any obvious error review beyond the first 10 seconds of an opening or re-opening.

Proposed Change to Subsection (c)(4)(B)

The Exchange proposes to amend subsection (c)(4)(B) of Rule 20.6—the ''Adjust or Bust'' rule for Customer transactions in Obvious Error situations—to adjust rather than nullify such orders, provided the adjustment does not violate the Customer's limit price. Currently, the Rule provides that in Obvious Error situations, transactions involving non-Customers should be adjusted, while transactions involving Customers are nullified, unless a certain condition applies.[9] The Industry Working Group has concluded that the treatment of these transactions should be harmonized under the Rule, such that transactions involving Customers may benefit from adjustment, just as non-Customer transactions currently do,

[8] *See* Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067).

[9] Specifically, the current Rule provides at subsection (c)(4)(C) that if a TPH has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of two minutes or less, where at least one party to the Obvious Error is a non-Customer, then the Exchange will apply the non-Customer adjustment criteria found in subsection (c)(4)(A).

except where such adjustment would violate the Customer's limit price; in that instance, the trade would be nullified.

Specifically, the Exchange proposes to amend the text of subsection (c)(4)(B) to add that where at least one party to the Obvious Error is a Customer, ''the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in subparagraph (a)(4) of the Rule. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,'' the trade will be nullified. The ''table immediately above'' referenced in the proposed text refers to the table at current subsection (c)(4)(A), which provides for the adjustment of prices a specified amount away from the Theoretical Price, rather than adjusting the Theoretical Price.

The Exchange proposes no other changes at this time.

Implementation Date

The Exchange will announce the operative date of the proposed changes to Members via notice with appropriate advanced notice, which will be posted on the Exchange's website. The proposed changes will become operative no sooner than six months from the date the Commission approved the identical NYSE Arca filing [10] in order for the Exchange's implementation of the proposed rule changes to coincide with the implementation of the same changes on all other options exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed change to subsection (b)(3) of Rule 20.6 would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest because it provides a method for addressing Obvious Error Customer transactions that occur in a wide market at the opening of trading. Generally, a wide market is an indication of a lack of liquidity in the market such that the market is unreliable. Current subsection (b)(3) recognizes that a persistently wide quote (*i.e.,* more than 10 seconds) should be considered the reliable market regardless of its width but does not address transactions that occur in a wide market in the first seconds of trading, where there is no preceding 10-second period to reference. Accordingly, in the first 10 seconds of trading, there is no opportunity for a wide quote to have persisted for a sufficiently lengthy period such that the market should consider it a reliable market for the purposes of determining an Obvious Error transaction.

The proposed change would rectify this disparity and permit the Exchange to consider whether a narrow quote is present at any time during the 10-second period after an opening or re-opening. The presence of such a narrow quote would indicate that the market has gained sufficient liquidity and that the previous wide market was unreliable, such that it would be appropriate for the Exchange to determine the Theoretical Price of an Obvious Error transaction. In this way, the proposed rule harmonizes the treatment of Customer transactions that execute in an unreliable market at any point of the trading day, by making them uniformly subject to Exchange determination of the Theoretical Price.

The Exchange believes that the proposed change to subsection (c)(4)(B) of the Rule would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by harmonizing the treatment of non-Customer transactions and Customer transactions under the Rule. Under the current Rule, Obvious Error situations involving non-Customer transactions are adjusted, while those involving Customer transactions are generally nullified, unless they meet the additional requirements of subsection (c)(4)(C) (*i.e.,* where a TPH has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of two minutes or less). The proposal would harmonize the treatment of non-Customer and Customer transactions by providing for the adjustment of all such transactions, except where such adjustment would violate the Customer's limit price.

When it proposed the current rule in 2015, the Exchange believed there were sound reasons for treating non-Customer transactions and Customer transactions differently. At the time, the Exchange stated its belief that ''Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts,'' and that nullifying Obvious Error transactions involving Customers would give Customers ''greater protections'' than adjusting such transactions by eliminating the possibility that a Customer's order will be adjusted to a significantly different price. The Exchange also noted its belief that ''Customers are . . . less likely to have engaged in significant hedging or other trading activity based on earlier transactions, and thus, are less in need of maintaining a position at an adjusted price than non-Customers.'' [14]

Those assumptions about Customer trading and hedging activity no longer hold. The Exchange and the Industry Working Group believe that over the course of the last five years, Customers that use options have become more sophisticated, as retail broker-dealers have enhanced the trading tools available. Pursuant to OCC data, volumes clearing in the Customer range have expanded from 12,022,163 ADV in 2015 to 35,081,130 ADV in 2021. This increase in trading activity underscores the greater understanding of options by Customers as a trading tool and its use in the markets. Customers who trade options today largely are more educated, have better trading tools, and have better access to financial news than any

[10] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067).

time prior.[15] The proposed rule would extend the hedging protections currently enjoyed by non-Customers to Customers, by allowing them to maintain an option position at an adjusted price, which would in turn prevent a cascading effect by maintaining the hedge relationship between the option transaction and any other transactions in a related security.

The Exchange believes that extending such hedging protections to Customer transactions would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by providing greater certainty of execution for all participants to options transactions. Under the current Rule, a Customer that believes its transaction was executed pursuant to an Obvious Error may be disincentivized from submitting the transaction for review, since during the review process, the Customer would be uncertain whether the trade would be nullified, and if so, whether market conditions would still permit the opportunity to execute a related order at a better price after the nullification ruling is finalized. In contrast, under the proposed rule, the Customer would know that the only likely outcomes of submitting a trade to Obvious Error review would be that the trade would stand or be re-executed at a better price; the trade would only be nullified if the adjustment would violate the order's limit. Similarly, under the current Rule, during the review period, a market maker who traded contra to the Customer would be uncertain if it should retain any position executed to hedge the original trade, or attempt to unwind it, possibly at a significant loss. Under the proposed rule change, this uncertainty is largely eliminated, and the question would be whether the already executed and hedged trade would be adjusted to a better price for the Customer, or if it would stand as originally executed. In this way, the proposed rule enhances the protection of investors and removes impediments to and perfects the mechanism of a free and open market and a national market system.

The proposed rule also addresses the concern the Exchange cited in its 2015 filing that adjusting, rather than nullifying, Customer transactions could lead to a Customer's order being adjusted to a significantly different price. To address that concern, the proposed rule would prevent Customer transactions from being adjusted to a price that violates the order's limit; if the adjustment would violate a Customer's limit, the trade would instead be nullified. The Exchange believes it is in the best interest of investors to expand the availability of adjustments to Customer transactions in all Obvious Error situations except where the adjustment would violate the Customer's limit price.

Further, the Exchange believes that, with respect to such proposed adjustments to Customer transactions, it is appropriate to use the same form of adjustment as is currently in place with respect to non-Customer transactions as laid out in the table in subsection (c)(4)(A). That is, the Exchange believes that it is appropriate to adjust to prices a specified amount away from the Theoretical Price rather than to adjust the Theoretical Price, even though the Exchange has determined a given trade to be erroneous in nature, because the parties in question should have had some expectation of execution at the price or prices submitted. Also, it is common that by the time it is determined that an Obvious Error has occurred, additional hedging and trading activity has already occurred based on the executions that previously happened. The Exchange believes that providing an adjustment to the Theoretical Price in all cases would not appropriately incentivize market participants to maintain appropriate controls to avoid potential errors, while adjusting to prices a specified amount away from the Theoretical Price would incentivize such behavior.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change to subsection (b)(3) would apply to all instances of a wide market occurring within the first 10 seconds of trading followed by a narrow market at any point in the subsequent 10-second period, regardless of the types of market participants involved in such transactions. The proposed change to subsection (c)(4)(B) would harmonize the treatment of Obvious Error transactions involving Customers and non-Customers, no matter what type of market participants those parties may be.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is identical to a NYSE Arca proposed rule change recently approved by the Commission.[16] The Exchange anticipates that the other options exchanges will adopt substantively similar proposals, such that there would be no burden on intermarket competition from the Exchange's proposal. Accordingly, the proposed change is not meant to affect competition among the options exchanges. For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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[17] and Rule 19b–4(f)(6)[18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule

[15] *See* "Retail Traders Adopt Options En Masse" by Dan Raju, *available at https://www.nasdaq.com/articles/retail-traders-adopt-options-en-masse-2020-12-08.*

[16] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2022–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–004 and should be submitted on or before February 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–01220 Filed 1–21–22; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting

TIME AND DATE: January 27, 2022, from 12:00 p.m. to 3:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and screensharing. Any interested person may call 877–853–5247 (US toll free), 888–788–0099 (US toll free), +1 929–205–6099 (US toll), or +1 669–900–6833 (US toll), Conference ID 997 9209 5957, to participate in the meeting. The website to participate via Zoom meeting and screenshare is *https://kellen.zoom.us/meeting/register/tJ0qfuuopz4jH9OuYMzVZU5qWXmcuft08lcA.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

Agenda

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For Discussion and Possible Action

The proposed Agenda will be reviewed, and the Board will consider adoption.

Ground Rules

➢ Board actions taken only in designated areas on agenda

IV. Approval of Board Minutes of the December 16, 2021 UCR Board Meeting—UCR Board Chair

For Discussion and Possible Action

Draft Minutes from the December 16, 2021 UCR Board meeting will be reviewed. The Board will consider action to approve.

V. Report of the Federal Motor Carrier Safety Administration (FMCSA)—FMCSA Representative

The FMCSA will provide a report on any relevant activity.

VI. Extension of UCR Plan/Kellen Company Contract—UCR Executive Director and UCR Board Chair

For Discussion and Possible Board Action

The UCR Executive Director and the UCR Board Chair will present and discuss with the Board a 1-year extension to the existing agreement between the UCR Plan and the Kellen Company. The Board may take action to approve the extension.

VII. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

A. Update to Internal Controls Accounting Guidelines—UCR Executive Director and UCR Depository Manager

For Discussion and Possible Board Action

The UCR Executive Director and the UCR Depository Manager will discuss potential amendments to the UCR Accounting Guidelines based on recommendations from a report on the internal controls review that was performed by an independent audit firm, Williams, Benator & Libby (WBL). Enhancements to the internal controls policies recommended by WBL in their report have been included in the proposed update to the written internal controls of the UCR Plan. The Board may consider adoption of the amendments to the UCR Accounting Guidelines.

B. UCR Compliance Snapshot—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair, supported by the UCR Vice-Chair and DSL Transportation, Inc., will review audit compliance rates for the states for registration years 2020, 2021, and 2022 and included compliance percentages for Focused Anomaly Reviews (FARs),

retreat audits, and registration compliance percentages as mandated by the UCR Board. A new element is being added that focuses on the states' enforcement and citations actually issued versus the ''Should Have Been'' (''SHB'') road-stops that were not cited. The new feature ranks the states based on citation percentages.

Finance Subcommittee—UCR Finance Subcommittee Chair

A. Certificate of Deposit (CD) for Financial Reserve—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Board Action

The UCR Depository Manager will present and discuss options for investing the proceeds from a CD that will mature on February 05, 2022. The Board may take action approving one of the presented options or another option for reinvesting the proceeds from the maturing CD.

B. Distribution From the UCR Depository for 2022 Registration Year—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and the UCR Depository Manager will provide an update on the timing for a distribution of fees from the UCR Depository to states that have not yet reached their revenue entitlements for the 2022 registration year.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

A. Update on Current and Future Training Initiatives—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair and the UCR Operations Manager will provide an update on current and future training initiatives for the UCR Plan.

VIII. Contractor Reports—UCR Executive Director

- UCR Executive Director's Report

The UCR Executive Director will provide a report covering recent activity for the UCR Plan.

- DSL Transportation Services, Inc.

DSL Transportation Services, Inc. will report on the latest data from the FARs program, discuss motor carrier inspection results, and other matters.

- Seikosoft

Seikosoft will provide an update on recent/new activity related to the National Registration System.

- UCR Administrator Report (Kellen)

The UCR staff will provide a management report covering recent activity for the Depository, Operations, and Communications.

IX. Other Business—UCR Board Chair

The UCR Board Chair will call for any other items Board members would like to discuss.

X. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

This agenda will be available no later than 5:00 p.m. Eastern time, January 20, 2022 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2022–01413 Filed 1–20–22; 4:15 pm]

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Reader Aids

Federal Register

Vol. 87, No. 15

Monday, January 24, 2022

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**
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