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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0684; Project Identifier MCAI–2021–00194–T; Amendment 39–21907; AD 2022–02–10]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes. This AD was prompted by a report of an improper heat treatment process applied during the manufacturing of certain titanium screws. This AD requires replacement of certain titanium screws, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 15, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0684.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0684; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0047, dated February 16, 2021 (EASA AD 2021–0047) (also referred to as the MCAI), to correct an unsafe condition for certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX airplanes. The NPRM published in the **Federal Register** on August 19, 2021 (86 FR 46629). The NPRM was prompted by a report of an improper heat treatment process applied during the manufacturing of certain titanium screws. The NPRM proposed to require replacement of certain titanium screws, as specified in EASA AD 2021–0047.

The FAA is issuing this AD to address failure of an affected screw installed in a critical location, possibly resulting in reduced structural integrity of the airplane. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from an anonymous commenter who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0047 specifies procedures for replacement of certain Decomatic titanium screws (including an inspection of the bore dimension and corrective actions (oversizing or repair)). The EASA AD also restricts installation of certain Decomatic titanium screws. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 90 work-hours × $85 per hour = Up to $7,650	*$0	Up to $7,650	Up to $229,500.

*The FAA has received no definitive information regarding cost estimates for these parts.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–02–10 Dassault Aviation: Amendment 39–21907; Docket No. FAA–2021–0684; Project Identifier MCAI–2021–00194–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation airplanes identified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0047, dated February 16, 2021 (EASA AD 2021–0047).

(1) Model FALCON 7X airplanes.

(2) Model FALCON 900EX airplanes.

(3) Model FALCON 2000EX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 51, Standard Practices/Structures.

(e) Reason

This AD was prompted by a report of an improper heat treatment process applied during the manufacturing of certain Decomatic titanium screws. The FAA is issuing this AD to address failure of an affected screw installed in a critical location, possibly resulting in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0047.

(h) Exceptions to EASA AD 2021–0047

(1) Where EASA AD 2021–0047 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0047 does not apply to this AD.

(3) Where EASA AD 2021–0047 specifies to ''replace each serviceable part,'' for this AD that replacement includes an inspection of the bore dimension and corrective actions (oversizing or repair), as specified in the service information referenced in EASA AD 2021–0047.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0047 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of

the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0047, dated February 16, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0047, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

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

Issued on January 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02555 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0444; Project Identifier MCAI–2020–01601–T; Amendment 39–21904; AD 2022–02–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by reports of wear damage found between the bonding clamps and the fuel feed tubes inside the left- and right-hand fuel tanks. This AD requires repetitive inspections of the fuel feed tubes for damage, replacement if necessary, and modification of the fuel feed line installation inside the left- and right-hand fuel tanks, which would terminate the repetitive inspections, as specified in a Transport Canada Civil Aviation (TCCA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 15, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca*; internet *https://tc.canada.ca/en/aviation.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0444.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0444; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Joseph Catanzaro, Aviation Safety Engineer, Airframe & Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

TCCA, which is the aviation authority for Canada, has issued TCCA AD CF–2019–19R1, issued November 1, 2019 (TCCA AD CF–2019–19R1) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on May 28, 2021 (86 FR 28719). The NPRM was prompted by reports of wear damage found between the bonding clamps and the fuel feed tubes inside the left- and right-hand fuel tanks. The NPRM proposed to require repetitive inspections of the fuel feed tubes for damage, replacement if necessary, and modification of the fuel feed line installation inside the left- and right-hand fuel tanks, which would terminate the repetitive inspections, as specified in TCCA AD CF–2019–19R1.

The FAA is issuing this AD to address failure of certain fuel feed tubes, which could lead to a severe fuel imbalance or fuel starvation of one engine, or in the event of the failure of multiple fuel tubes feeding both engines, could result in an in-flight shutdown of both engines. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

The FAA received an additional comment from Delta Air Lines (DAL). The following presents the comment received on the NPRM and the FAA's response.

Request for an Optional Method of Compliance

DAL asked that the FAA add an optional method of compliance to the proposed AD. DAL recommended an additional exception be added in paragraph (h)(5) of the proposed AD to specify that: ''It is acceptable to accomplish Airbus Canada Limited Partnership Service Bulletin BD500–282004, Issue No. 001, dated August 30, 2019, concurrently with Airbus Canada Limited Partnership Service Bulletin BD500–282005, Issue No. 001, dated August 30, 2019, as terminating action for Part I and Part II of TCCA AD CF–2019–19R1.'' DAL stated that Airbus Canada Limited Partnership Service Bulletin BD500–282005 (which is not required by the proposed AD) also modifies the fuel feed system. DAL noted that doing the service bulletins

concurrently would require reordering and eliminating steps from the service information. DAL stated that these changes would not alter the final configuration of Airbus Canada Limited Partnership Service Bulletin BD500–282004, Issue No. 001, dated August 30, 2019. DAL noted the changes simply allow these modifications to be done concurrently. DAL concluded that both service bulletins are FAA approved.

The FAA disagrees with the commenter's request. An operator may always do additional work while performing tasks required by an AD without the need for an exemption or an alternate method of compliance (AMOC), as long as those tasks do not impact compliance with the AD. However, in this case, DAL is proposing to reorder or eliminate certain steps in the required service information. Although DAL provided some information, it did not provide sufficient data to allow the FAA to conclusively determine that the proposed changes would provide an acceptable level of safety. In addition, the FAA does not consider it appropriate to include provisions in an AD applicable only to a single operator's unique use of required service information. However, under the provisions of paragraph (j)(1) of this AD, the FAA will consider requests for an AMOC. Therefore, the FAA has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

TCCA AD CF–2019–19R1 describes procedures for repetitive inspections of the fuel feed tubes for damage, replacement if any damage is found, and modification of the fuel feed line installation inside the left- and right-hand fuel tanks, which would terminate the repetitive inspections.

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

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 46 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 91 work-hours × $85 per hour = Up to $7,735	Up to $15,265	Up to $23,000	Up to $1,058,000.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
3 work-hours × $85 per hour = $255	Up to $77,000	Up to $77,255.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–02–07 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–21904; Docket No. FAA–2021–0444; Project Identifier MCAI–2020–01601–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada Civil Aviation (TCCA) AD CF–2019–19R1, issued November 1, 2019 (TCCA AD CF–2019–19R1).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of wear damage found between the bonding clamps and the fuel feed tubes inside the left- and right-hand fuel tanks. In one incident, the wear damage resulted in a hole in the main engine fuel feed tube located in the collector tank, and subsequent fuel imbalance during flight. The FAA is issuing this AD to address failure of certain fuel feed tubes, which could lead to a severe fuel imbalance or fuel starvation of one engine, or in the event of the failure of multiple fuel tubes feeding both engines, could result in an in-flight shutdown of both engines.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, TCCA AD CF–2019–19R1.

(h) Exceptions to TCCA AD CF–2019–19R1

(1) Where TCCA AD CF–2019–19R1 refers to the effective date of TCCA AD CF–2019–19 (May 27, 2019), this AD requires using the effective date of this AD.

(2) Where TCCA AD CF–2019–19R1 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where TCCA AD CF–2019–19R1 refers to hours air time, this AD requires using flight hours.

(4) Where TCCA AD CF–2019–19R1 specifies rectifying ''any noted discrepancy,'' for this AD discrepancies are ''damage, cracks, scores, scratches, nicks, and gouges.''

(i) No Reporting Requirement

Although the service information referenced in TCCA AD CF–2019–19R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(k) Related Information

For more information about this AD, contact Joseph Catanzaro, Aviation Safety Engineer, Airframe & Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Transport Canada Civil Aviation (TCCA) AD CF–2019–19R1, issued November 1, 2019.

(ii) [Reserved]

(3) For TCCA AD CF–2019–19R1, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca*; internet *https://tc.canada.ca/en/aviation.*

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

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

Issued on January 7, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02546 Filed 2–7–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0835; Project Identifier AD–2021–00971–E; Amendment 39–21906; AD 2022–02–09]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–11–15 for certain International Aero Engines AG (IAE) V2500 model turbofan engines. AD 2021–11–15 required performance of an ultrasonic inspection (USI) of the high-pressure turbine (HPT) 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacement of the HPT 1st-stage disk or HPT 2nd-stage disk. Since the FAA issued AD 2021–11–15, the FAA determined the need to clarify the compliance time for inspection of any HPT 1st-stage disk or HPT 2nd-stage disk that is installed on a low-thrust model engine but had been previously operated on a high-thrust model engine. This AD requires performance of a USI of the HPT 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacement of the HPT 1st-stage disk or HPT 2nd-stage disk. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of July 13, 2021 (86 FR 30380, June 8, 2021).

ADDRESSES: For service information identified in this final rule, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com*; website: *https://connect.prattwhitney.com.* 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. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0835.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0835; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Alberto Hernandez, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7329; fax: (781) 238–7199; email: *Alberto.J.Hernandez@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–11–15, Amendment 39–21577 (86 FR 30380, June 8, 2021), (AD 2021–11–15). AD 2021–11–15 applied to all IAE V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 model turbofan engines with a certain HPT 1st-stage disk or HPT 2nd stage disk installed. The NPRM published in the **Federal Register** on October 28, 2021 (86 FR 59658). The NPRM was prompted by the FAA determining the need to clarify the compliance time for inspection of any HPT 1st-stage disk or HPT 2nd-stage disk that is installed on a V2500 low-thrust model engine but that had been previously operated on a V2500 high-thrust model engine. The manufacturer categorizes V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines as high-thrust model engines and V2522–A5, V2524–A5, V2525–D5, and V2527–A model turbofan engines as low-thrust model engines. The FAA determined that any HPT 1st-stage disk and HPT 2nd-stage disk that was operated on a high-thrust model engine must follow shortened compliance thresholds. In the NPRM, the FAA proposed to require the performance of a USI of the HPT 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacement of the HPT 1st-stage disk or HPT 2nd-stage disk.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. Commenters included Air Line Pilots Association, International and United Airlines Engineering. All commenters supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed IAE Non-Modification Service Bulletin (NMSB) No. V2500–ENG–72–0713, Revision 1, dated January 26, 2021. This NMSB identifies the affected HPT 1st-stage disks and HPT 2nd-stage disks on IAE V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines and specifies procedures for a USI of the HPT 1st-stage disk and HPT 2nd-stage disk. The Director of the Federal Register approved IAE NMSB V2500–ENG–72–0713, Revision 1, dated January 26, 2021 for incorporation by reference as of July 13, 2021 (86 FR 30380, June 8, 2021).

The FAA also reviewed IAE NMSB No. V2500–E5–72–0015, Revision 1, dated August 10, 2021. This NMSB identifies the affected HPT 1st-stage disks and HPT 2nd-stage disks on IAE V2531–E5 model turbofan engines and specifies procedures for a USI of the HPT 1st-stage disk and HPT 2nd-stage disk.

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

Costs of Compliance

The FAA estimates that this AD affects 1,100 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
USI the HPT 1st-stage disk and HPT 2nd-stage disk.	20 work-hours × $85 per hour = $1,700	$0	$1,700	$1,870,000

The FAA estimates the following costs to do any necessary replacement that is required based on the results of the inspection. 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 HPT 1st-stage disk or HPT 2nd-stage disk.	0 work-hours × $85 per hour = $0	$300,000	$300,000

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–11–15, Amendment 39–21577 (86 FR 30380, June 8, 2021); and

■ b. Adding the following new airworthiness directive:

2022–02–09 International Aero Engines AG: Amendment 39–21906; Docket No. FAA–2021–0835; Project Identifier AD–2021–00971–E.

(a) Effective Date

This airworthiness directive (AD) is effective March 15, 2022.

(b) Affected ADs

This AD replaces AD 2021–11–15, Amendment 39–21577 (86 FR 30380, June 8, 2021) (AD 2021–11–15).

(c) Applicability

This AD applies to International Aero Engines AG (IAE) V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 model turbofan engines with an installed:

(1) High-pressure turbine (HPT) 1st-stage disk, part number (P/N) 2A5001, with a serial number (S/N) listed in Appendix A, Table 1, of IAE Non-Modification Service Bulletin (NMSB) No. V2500–ENG–72–0713, Revision 1, dated January 26, 2021 (IAE NMSB V2500–ENG–72–0713, Revision 1) or IAE NMSB No. V2500–E5–72–0015, Revision 1, dated August 10, 2021 (IAE NMSB V2500–E5–72–0015, Revision 1); or

(2) HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, or IAE NMSB V2500–E5–72–0015, Revision 1.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by an analysis performed by the manufacturer after an event involving an uncontained failure of a HPT 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. The FAA is issuing this AD to prevent failure of the HPT 1st-stage disk and HPT 2nd-stage disk. The unsafe condition, if not addressed, could result in uncontained HPT disk failure, damage to the engine, damage to the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines with an HPT 1st-stage disk, P/N 2A5001, with an S/N listed in Appendix A, Table 1, of IAE NMSB V2500–ENG–72–0713, Revision 1, within the compliance time specified in Figure 1 to paragraph (g)(1) of this AD, or within 10 flight cycles (FCs) after the effective date of this AD, whichever occurs later, perform an ultrasonic inspection (USI) of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 6, of IAE NMSB V2500–ENG–72–0713, Revision 1.

Figure 1 to Paragraph (g)(1) – Inspection threshold

	Compliance time: Whichever occurs first, Row A or B
A	At the next engine shop visit after July 13, 2021 (the effective date of AD 2021-11-15)
B	Before the HPT 1st-stage disk or HPT 2nd-stage disk has accumulated 3,200 FCs since July 13, 2021

Note 1 to paragraph (g)(1): The USI required by paragraphs (g)(1) through (6) of this AD requires the HPT 1st-stage disk and HPT 2nd-stage disks to be removed from the engine allowing piece-part opportunity inspections. Per the Airworthiness Limitations Section of the manufacturer's Instructions for Continued Airworthiness, the additional inspections are not required unless the part has more than 100 FCs since the last piece-part opportunity inspection, is damaged, or is the cause for the removal of the engine. Engine removal for the purposes of complying with this AD is not ''cause'' for

removal as stated in the Airworthiness Limitations Section.

(2) For IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines with an HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, within the compliance time specified in Figure 1 to paragraph (g)(1) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 7, of IAE NMSB V2500–ENG–72–0713, Revision 1.

(3) For IAE V2522–A5, V2524–A5, V2525–D5, and V2527–A5 model turbofan engines with an HPT 1st-stage disk, P/N 2A5001, with an S/N listed in Appendix A, Table 1, of IAE NMSB V2500–ENG–72–0713, Revision 1, within the following compliance times, perform a USI of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 6, of IAE NMSB V2500–ENG–72–0713, Revision 1:

(i) If the affected HPT 1st-stage disk has not operated at any time in an IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, or V2533–A5 model turbofan engine, perform the inspection within the compliance time specified in Figure 2 to paragraph (g)(3)(i) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later; or

Figure 2 to Paragraph (g)(3)(i) – Inspection threshold

	Compliance time: Whichever occurs first, Row A or B
A	At the next HPT rotor and stator assembly (HPT module) removal after July 13, 2021 (the effective date of AD 2021-11-15)
B	Before the HPT 1st-stage disk or HPT 2nd-stage disk has accumulated 6,700 FCs since July 13, 2021

(ii) If the affected HPT 1st-stage disk has operated at any time in an IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, or V2533–A5 model turbofan engine, perform the inspection within the compliance time specified in Figure 1 to paragraph (g)(1) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later.

(4) For IAE V2522–A5, V2524–A5, V2525–D5, and V2527–A5 model turbofan engines with an HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, within the following compliance times, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 7, of IAE NMSB V2500–ENG–72–0713, Revision 1:

(i) If the affected HPT 2nd-stage disk has not operated at any time in an IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, or V2533–A5 model turbofan engine, perform the inspection within the compliance time specified in Figure 2 to paragraph (g)(3)(i) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later; or

(ii) If the affected HPT 2nd-stage disk has operated at any time in an IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, or V2533–A5 model turbofan engine, perform the inspection within the compliance time specified in Figure 1 to paragraph (g)(1) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later.

(5) For IAE V2531–E5 model turbofan engines with an HPT 1st-stage disk, P/N 2A5001, with an S/N listed in Appendix A, Table 1, of IAE NMSB V2500–E5–72–0015, Revision 1, within the compliance time specified in Figure 1 to paragraph (g)(1) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later, perform a USI of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 6, of IAE NMSB V2500–E5–72–0015, Revision 1.

(6) For IAE V2531–E5 model turbofan engines with an HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–E5–72–0015, Revision 1, within the compliance time specified in Figure 1 to paragraph (g)(1) of this AD, or within 10 FCs after the effective date of this AD, whichever occurs later, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 7, of IAE NMSB V2500–E5–72–0015, Revision 1.

(7) If, during the USI required by paragraphs (g)(1) through (6) of this AD, an HPT 1st-stage disk or HPT 2nd-stage disk does not pass the inspection as specified in the Accomplishment Instructions, paragraph 8, of IAE NMSB V2500–ENG–72–0713, Revision 1, or IAE NMSB V2500–E5–72–0015, Revision 1, as applicable, before further flight, remove the HPT 1st-stage disk or HPT 2nd-stage disk, as applicable, from service and replace with a part eligible for installation.

(h) Definitions

(1) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, H–P, except for the following situations, which do not constitute an engine shop visit.

(i) Separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance.

(ii) Engine removal for the purpose of performing field maintenance activities at a maintenance facility in lieu of performing them on-wing.

(2) For the purpose of this AD, a ''part eligible for installation'' is:

(i) An HPT 1st-stage disk or HPT 2nd-stage disk listed in Appendix A, Tables 1 and 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, or Appendix A, Tables 1 and 2, of IAE NMSB V2500–E5–72–0015, Revision 1, that passed the USI required by paragraphs (g)(1) through (6) of this AD; or

(ii) An HPT 1st-stage disk or HPT 2nd-stage disk that is not listed in Appendix A, Tables 1 and 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, or Appendix A, Tables 1 and 2, of IAE NMSB V2500–E5–72–0015, Revision 1.

(i) Credit for Previous Actions

You may take credit for the USI of the HPT 1st-stage disk and HPT 2nd-stage disk required by paragraphs (g)(5) and (6) of this AD and the replacement of the HPT 1st-stage disk and HPT 2nd-stage disk required by paragraph (g)(7) of this AD, if you performed these actions before the effective date of this AD in accordance with IAE NMSB No. V2500–E5–72–0015, original issue, dated December 15, 2020.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Alberto Hernandez, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7329; fax: (781) 238–7199; email: *Alberto.J.Hernandez@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(3) The following service information was approved for IBR on March 15, 2022.

(i) International Aero Engines AG (IAE) Non-Modification Service Bulletin (NMSB) No. V2500–E5–72–0015, Revision 1, dated August 10, 2021.

(ii) [Reserved]

(4) The following service information was approved for IBR on July 13, 2021 (86 FR 30380, June 8, 2021).

(i) IAE NMSB No. V2500–ENG–72–0713, Revision 1, dated January 26, 2021.

(ii) [Reserved]

(5) For service information identified in this AD, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *https://connect.prattwhitney.com.*

(6) 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.

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

Issued on January 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02574 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0501; Project Identifier MCAI–2021–00168–T; Amendment 39–21908; AD 2022–02–11]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–20–10, which applied to certain Airbus SAS Model A318 series airplanes; Model A319–111, –112,–113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–20–10 required repetitive rototest inspections of the holes at the door stop fittings for any cracking, and corrective actions if necessary. Since the FAA issued AD 2019–20–10, a clarification of a certain compliance time for the rototest inspection was added. This AD clarifies a certain compliance time and continues to require repetitive rototest inspections of the holes at the door stop fittings for any cracking, and repair if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 15, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0501.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0501; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0289R1, dated February 10, 2021 (EASA AD 2018–0289R1) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. EASA AD 2018–0289R1 supersedes EASA AD 2018–0289 (which corresponds to FAA AD 2019–20–10, Amendment 39–19763 (84 FR 61526, November 13, 2019) (AD 2019–20–10). Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–20–10. AD 2019–20–10 applied to certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on June 16, 2021 (86 FR 31989). The NPRM was prompted by a report that cracks were detected on frame (FR)16 and FR20 web holes and passenger door intercostal fitting holes at the door stop fitting locations, and a determination that a certain compliance time needs to be clarified. The NPRM proposed to clarify a certain compliance time and continue to require repetitive rototest inspections of the holes at the door stop fittings for any cracking, and repair if necessary as specified in EASA AD 2018–0289R1.

The FAA is issuing this AD to address cracking of the web holes at the door stop fittings, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters, including Delta Airlines (DAL) and United Airlines (UAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Clarify the Requirements of the Repair Design Approval Sheet (RDAS)

DAL requested clarification for the following RDAS approval:

• Can the FAA confirm that paragraph (h)(4) of the proposed AD allow operators to account for repairs that are approved using a Repair and Design Approval Form (RDAF) in addition to those repairs that are approved using RDAS? DAL commented that since 2021, the RDAS is no longer Airbus's form of approving repair instructions and it has been replaced by RDAF.

• Can the FAA confirm that if a repair has been approved, ''in accordance with a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature,'' it is acceptable to accomplish the next inspection for each repaired area affected by using the same method of compliance? DAL commented that if this is the case, it requests the FAA either revise paragraph (h)(4) of the proposed AD or include an exception paragraph to the proposed AD to explicitly makes this clear.

The FAA confirms that it accepts Airbus's EASA DOA approval in the form of both an RDAS and an RDAF. The FAA also confirms that for paragraph (3) of EASA AD 2018–0289R1, the next inspections are done at the times specified in the approved method. The FAA has added paragraph (h)(5) of this AD to specify where paragraph (3) of EASA AD 2018–0289R1 refers to accomplishing the next due inspection of each repaired affected area ''within the compliance time as specified in, Airbus RDAS, as applicable,'' this AD uses the applicable compliance time specified in the repair ''approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.''

Request To Revise the Compliance Time

UAL stated AD 2018–0289R1 was issued to clarify that, to determine the compliance time for the initial inspection of an affected area, the latest accomplishment of the airworthiness limitations item (ALI) task for that affected area must be taken into account. UAL stated that the initial inspection for the FR16 door stop fitting holes cannot be accomplished within 16,800 flight cycles from ALI task 531103–01–1 if FR20 was the only applicable side for the task at ''[airworthiness limitations section] ALS Part 2 Rev 3'' or earlier revisions. UAL commented that, therefore, the proposed AD may have an impact on an airline's operation and, for FR16 only, result in immediate non-compliance if ALI task 531103–01–1 was accomplished at ''ALS Part 2 Rev 3'' or earlier revisions for FR20. UAL stated that condition ''A'' in ''Table 1: Inspection Thresholds'' of AD 2018–0289R1, specifies the inspection threshold for FR16 as 30,000 total flight cycles and certain airplanes may be above 30,000 total flight cycles under this condition.

UAL commented that the side of FR16 was added to the ALI task 531103–01–1 description in ''ALS Part 2 Rev 4,'' and as stated in ''ALS Part 2 Rev 4, Section 2 Paragraph 1(1),'' the two digit sequence number following structural significant item number (*i.e.,* 531103–01) changes when the inspection area is physically different (*i.e.,* FR16 or FR20). UAL also commented that ''ALS Part 2 Rev 4'' did not change the ALI task sequence number or describe any retroactive action if FR20 was the only side previously inspected using ''ALS Part 2 Rev 3'' or earlier revisions. UAL stated that it believes this change was overlooked in ''ALS Part 2 Rev 4,'' and as a result, operators may not have been aware to reset the initial inspection for the ALI for FR16.

The FAA acknowledges the commenter's concern for the FR16 inspection requirement. The FAA has added paragraph (h)(6) to this AD to include a 30-day grace period as of the effective date of this AD for airplanes affected by condition ''A'' in ''Table 1: Inspection Thresholds'' of AD 2018–0289R1. The 30-day grace period prevents grounding of airplanes that are above the 30,000 total flight cycle threshold while still allowing for an acceptable level of safety.

Regarding the change in ''ALS part 2 Rev 4,'' the FAA notes that the description for task 531103–01 to accomplish the inspection for FR16 and FR20 is specified in ''ALS part 2 Rev 4.'' The change related to FR16 was also referenced in the record of revision section of ''ALS part 2.''

Request To Clarify Alternative Method of Compliance (AMOC) Approvals

DAL requested clarification of AMOC approvals as specified in paragraphs (i)(1)(i) and (ii) of the proposed AD. DAL commented on a scenario where an AMOC was approved for AD 2019–20–10 for an operator's entire fleet, which included a deviation to one of the paragraphs in EASA AD 2018–0289 and a deviation to one of the applicable service bulletins for correcting an error. DAL commented that because the AMOC is applicable to the whole fleet, it is possible that the AMOC approval applies to a manufacturer serial number that is applicable to the compliance time specified in ''Table 1: Inspection Thresholds,'' Row B, of EASA AD 2018–0289R1. DAL asked if this particular AMOC still applies once the final rule becomes effective or is a new AMOC request required for a deviation to the EASA AD requirements and for the service bulletin correction?

The FAA agrees to provide clarification. The intent of the paragraph (i)(1)(i) and (ii) of this AD is to ensure that existing AMOCs are not inadvertently affected with the new inspection threshold added in EASA AD 2018–0289R1. It is the operator's responsibility to consult with the FAA oversight office and the office responsible for the issuance of an AMOC if AMOC validity is impacted by ''Table 1: Inspection Thresholds,'' Row B, of EASA AD 2018–0289R1. If an AMOC is issued to correct service bulletin errors and it is not related to the inspection threshold change in ''Table 1: Inspection Thresholds,'' Row B, of EASA AD 2018–0289R1, then it would be applicable to this AD without further evaluation. The FAA has not changed the AD in this regard.

Requests To Include or Exclude a Reporting Requirement

UAL requested that the proposed AD include a reporting requirement for the inspection. UAL stated that it believes no reporting to the manufacturer is required since it is not a requirement in AD 2019–20–10 or EASA AD 2018–0289R1; however, UAL also noted that Airbus Mandatory Bulletin A320–53–1339, Revision 01, dated April 7, 2021, contains reporting in the ''Required for Compliance'' section of the service bulletin.

DAL requested that the FAA add a statement to paragraph (h) of the proposed AD exempting operators from any mandatory reporting. DAL commented that Airbus has issued Mandatory Bulletin A320–53–1339, Revision 01, dated April 7, 2021, and that paragraph 3.C. of the service bulletin contains instructions to complete an ''Inspection Report Sheet'' form and to send the completed form to Airbus. DAL stated that paragraph 3.C.(8) of Airbus Mandatory Bulletin

A320–53–1339, Revision 01, dated April 7, 2021, is considered an ''RC'' paragraph, and therefore, reporting the inspection results is considered mandatory. DAL commented that, typically, reporting is needed from operators to determine root cause of the issue and that the root cause of the safety concern is already addressed in previously issued revisions of the service information.

The FAA agrees to clarify. EASA AD 2018–0289R1 does not include a reporting requirement that is separate from the reporting to address an unsafe condition (inspection findings); however EASA AD 2018–0289R1 allows the use of later-approved revisions of the service information, which includes Airbus Mandatory Service Bulletin A320–53–1339, Revision 01, dated April 7, 2021. Airbus Mandatory Service Bulletin A320–53–1339, Revision 01, dated April 7, 2021, specifies reporting is necessary if the cracked intercostal(s) are replaced according to repair instruction R53113118. The FAA would also like to clarify that requirements to contact manufacturer to obtain method of compliance does not require specific reporting requirements and must be complied with.

The FAA has added paragraph (h)(7) of this AD to clarify that the reporting specified in paragraph 3.C.(8) of the inspection service bulletin referenced in EASA AD 2018–0289R1, is required only if the cracked intercostal(s) have been replaced using repair instruction R53113118.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2018–0289R1 describes procedures for repetitive rototest inspections of the holes at the door stop fittings for any cracking and repair if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 1,528 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2019-20-10 (1,229 airplanes).	33 work-hours × $85 per hour = $2,805	$0	$2,805	$3,447,345
Inspections	33 work-hours × $85 per hour = $2,805	0	2,805	4,286,040

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
51 work-hours × $85 per hour = $4,335 (repair)	$350	$4,685
1 work-hours × $85 per hour = $85 (reporting)	0	85

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) AD 2019–20–10, Amendment 39–19763 (84 FR 61526, November 13, 2019); and

■ b. Adding the following new AD:

2022–02–11 Airbus SAS: Amendment 39–21908; Docket No. FAA–2021–0501; Project Identifier MCAI–2021–00168–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 15, 2022.

(b) Affected ADs

This AD replaces AD 2019–20–10, Amendment 39–19763 (84 FR 61526, November 13, 2019) (AD 2019–20–10).

(c) Applicability

This AD applies to Airbus SAS airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2018–0289R1, dated February 10, 2021 (EASA AD 2018–0289R1).

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

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

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report that cracks were detected on frame (FR)16 and FR20 web holes and passenger door intercostal fitting holes at the door stop fitting locations, and a determination that a certain compliance time needs to be clarified. The FAA is issuing this AD to address cracking of the web holes at the door stop fittings, which could affect the structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0289R1.

(h) Exceptions to EASA AD 2018–0289R1

(1) Where EASA AD 2018–0289R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2018–0289R1 does not apply to this AD.

(3) Where Table 1 of EASA AD 2018–0289R1 refers to a compliance time ''after 31 May 2017,'' this AD requires using a compliance time after May 31, 2018 (the effective date of task 531103–01–1 in ''ALS Part 2 rev. 6'').

(4) Where paragraphs (3) and (6) of EASA AD 2018–0289R1 refers to actions that have been done ''in accordance with Airbus Repair Design Approval Sheet (RDAS),'' this AD includes repair done ''in accordance with a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.''

(5) Where paragraph (3) of EASA AD 2018–0289R1 refers to accomplishing the next due inspection of each repaired affected area ''within the compliance time as specified in, Airbus RDAS, as applicable,'' for this AD use the applicable compliance time specified in the repair ''approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.''

(6) Where condition ''A'' in Table 1 of EASA AD 2018–0289R1 specifies a compliance time of ''Before exceeding 30[,]000 FC since aeroplane first flight,'' this AD requires, for the inspection at frame 16 only, a compliance time of ''Before exceeding 30,000 flight cycles since airplane's first flight, or within 30 days after the effective date of this AD, whichever occurs later.''

(7) If the actions in paragraph 3.C.(8) of the inspection service bulletin referenced in EASA AD 2018–0289R1 specifies to report all findings, this AD requires reporting if only the cracked intercostal(s) that have been replaced using repair instruction R53113118. Report results at the applicable time specified in paragraph (h)(7)(i) or (ii) of this AD. If operators have reported findings as part of obtaining any corrective actions approved by Airbus SAS's European Aviation Safety Agency (EASA) Design Organization Approval (DOA), operators are not required to report those findings as specified in this paragraph.

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

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

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2019–20–10 are approved as AMOCs for the corresponding provisions of EASA AD 2018–0289R1 that are required by paragraph (g) of this AD, except for those airplanes having a compliance time specified in ''Table 1: Inspection Thresholds,'' Row B, of EASA AD 2018–0289R1.

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2018–0289R1 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2018–0289R1, dated February 10, 2021.

(ii) [Reserved]

(3) For EASA AD 2018–0289R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

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

Issued on January 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02554 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 220120–0031]

RIN 0694–AI69

Revisions to the Unverified List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by adding thirty-three (33) persons to the Unverified List (UVL). The thirty-three persons are added to the UVL on the basis that BIS was unable to verify their *bona fides* because an end-use check could not be completed satisfactorily for reasons outside the U.S. Government's control.

DATES: This rule is effective: February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Linda Minsker, Director, Office of Enforcement Analysis, Phone: (202) 482–4255 or by email at *UVLRequest@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Unverified List, found in supplement no. 6 to part 744 of the EAR (15 CFR parts 730 through 774), contains the names and addresses of foreign persons who are or have been parties to a transaction, as such parties are described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* (*i.e.,* legitimacy and reliability relating to the end use and end user of items subject to the EAR) BIS has been unable to verify through an end-use check. BIS may add persons to the UVL when BIS or Federal officials acting on BIS's behalf have been unable to verify a foreign person's *bona fides* because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for reasons outside the U.S. Government's control.

There are occasions when, for a number of reasons, including but not limited to reasons unrelated to the cooperation of the foreign party subject to the end-use check, end-use checks cannot be completed. For example, BIS sometimes initiates end-use checks but is unable to complete them because the foreign party cannot be found at the address indicated on the associated export documents and BIS cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks, prevent the scheduling of such checks, or refuse to schedule them in a timely manner. Under circumstances such as these, although BIS has an interest in informing the public of its inability to verify the foreign party's *bona fides,* there may not be sufficient information to add the foreign person at issue to the Entity List under § 744.11 of the EAR (Criteria for revising the Entity List). In such circumstances, BIS may add the foreign person to the UVL.

Furthermore, BIS sometimes conducts end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if, during the conduct of an end-use check, a recipient of items subject to the EAR is unable to produce the items that are the subject of the end-use check for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of the items. The inability of foreign persons subject to end-use checks to demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR and indicates a risk that such items may be diverted to prohibited end uses and/or end users. However, BIS may not have sufficient information to establish that such persons are involved in activities described in part 744 or 746 of the EAR, preventing the placement of the persons on the Entity List. In such circumstances, the foreign persons may be added to the UVL.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and maintain a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement.

Requests for the removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL entry will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides.*

Changes to the EAR

Supplement No. 6 to Part 744 (''the Unverified List'' or ''UVL'')

Along with the additions to the UVL detailed below, this rule also changes the country name of ''China'' in the first column of the UVL to the ''People's Republic of China.'' This change reflects how China is described in the Entity List and Military End-User List, both supplements to part 744. This rule adds thirty-three persons to the UVL by amending Supplement No. 6 to part 744 of the EAR to include their names and addresses. BIS is adding these persons pursuant to § 744.15(c) of the EAR, on the basis that BIS could not verify their *bona fides* because an end-use check on transactions subject to the EAR in which these persons were parties could not be completed satisfactorily for reasons outside the U.S. Government's control. This final rule implements the decision to add the following thirty-three persons located in China to the UVL:

China, People's Republic of:

1. AECC South Industry Co., Ltd., Dongjiaduan, Lusong District, Zhuzhou, Hunan Province, China
2. Beijing SWT Science, Yingbinbei Road 36, Yanjiao Economic & Development Zone, Sanhe City, Hebei Province, China
3. Beijing Zhonghehangxun Technology Co., Ltd., Room 1705, Kaixuancheng Building E, No. 170 Beiyuan Road, Chaoyang District, Beijing, China
4. China National Erzhong Group Deyang Wanhang Die Forging Co., Ltd., No. 460 Zhujiang Road West, Deyang City, Sichuan Province, China
5. Chuzhou HKC Optoelectronics Technology Co., Ltd., No.101 Suchu Ave., Economic and Technological Development Zone, Nanqiao District, Chuzhou, Anhui Province 239000, China
6. Dongguan Durun Optical Technology Co., Ltd., Building M Shing'ang Industrial Area, Houda Road, Dalingshan, Dongguan, Guangdong Province 523000, China
7. Dongguan Huiqun Electronic Co., Ltd., 30 Daling Street, Jiaoyitang, Tangxia Town, Dongguan City, Guangdong Province 523723, China
8. Guangdong Guanghua Sci-Tech Co., No. 295 Daxue Road, Shantou, Guangdong Province, China
9. Guangxi Intai Technology Co., Ltd., 1 Jianan Road, Liuzhou City, Guangxi Province, China
10. Guangzhou Hymson Laser Tehnology Co., Ltd., No. 2 Shiling Road, Dongchong Town, Nansha District, Guangzhou, Guangdong Province 511453, China
11. Harbin Xinguang Feitian, 1717 Chuangxin Yi Road, Harbin, Heilongjiang Province, China
12. Hefei Anxin Reed Precision Co., Ltd., No. 15 South Feiyang Road, Dayang Industry Park, Luyang District, Hefei City, Anhui Province 230000, China
13. Heshan Deren Electronic Technology Co., Ltd., No. 13 Hongjiang Road, Heshan Industry City, Heshan City, Guangdong Province 529728, China
14. Hubei Longchang Optical Co., Ltd., No. 4 Group Lianhuayan Village, Yaojiadian Town, Yidu City, Hubei Province 44300, China
15. Hubei Sinophorus Electronic Materials Co., Ltd., No. 66–3, Xiaoting Road, Yichang, Hubei Province, China
16. Hunan University, State Key Lab of Chemo/Biosensing & Chemometrics, Lushan Road, Yuelu District, Changsha, Hunan Province, China
17. Jinan Bodor CNC Machine Co., Ltd., 1299 Xinluo Ave., Hi-Tech Zone, Jinan, Shandong Province, China
18. Jiutian Intelligent Equipment Co., Ltd., Woyun Road, Taohue Industry Park, Hefei Economic Zone, Hefei, Anhui Province, China
19. Kunshan Heng Rui Cheng Industrial Technology Co., Ltd., No. 1088 Datong Road, Penglang Town, Kunshan Development Zone, Kunshan, Jiangsu 215300, China
20. Shanghai Fansheng Optoelectronic Science & Technology Co., Ltd., No. 56 Jungong Road, Yangpu District, Shanghai, China
21. Shanghai Micro Electronics Equipment (Group) Co., Ltd., No. 1525 Zhangdong Road, Zhangjiang Hi-Tech Park, Pudong, Shanghai, China
22. Shuang Xiang (Fujian) Electronics, No. 158 Jiangbin East Ave., Mawei, Fuzhou, Fujian 350300, China
23. Southern University of Science and Technology, Department of Mechanical and Energy Engineering, 1088 Xueyuan Ave., Nanshan District, Shenzhen, Guangdong 518055, China
24. Suzhou Chaowei Jingna Optoelectric Co., Ltd., No. 97–1 Dongyuan Road, Jinting Town, Wuzhong District, Suzhou, Jiangsu, China
25. Suzhou Gyz Electronic Technology Co., Ltd., No. 629 Songjiagang Road, Zhoushi Town, Kunshan City, Jiangsu Province 215314, China
26. Suzhou Lylap Mould Technology Co., Ltd., No. 66–26 Linggang Road, Luzhi Town, Wuzhong District, Suzhou, Jiangsu Province, China
27. Wuxi Biologics Co., Ltd., No. 108, Warehouse, Meiliang Road, Mashan Binghu, Wuxi, China, *and*
    No. 178 West Meiliang Road, Mashan Binghu District, Wuxi, China, *and*
    No. 200 Meiling Road, Mashan Town, Binhu District, Wuxi City, China
28. Wuxi Biologics (Shanghai) Co., Ltd., Room 701, 7F, No. 02 Huajing Road, Waigaoqiao Free Trade Zone, Shanghai, China, *and*
    Bldg. 71–B, 96 Yiwei Road, Waigaoqiao Free Trade Zone, Shanghai, China
29. Wuxi Turbine Blade Co., Ltd., 1800 Huishan Avenue, Huishan Economic Development District, Wuxi, Jiangsu Province, China
30. Yunnan Fs Optics Co., Ltd., Hongta Industrial Zone, Hongta District, Yuxi, Yunnan Province, China
31. Yunnan Tianhe Optoelectronic Co., Ltd., Longquan Avenue, Longquan Industrial Zone, Jiangchuan, Yuxi City, Yunnan Province, China
32. Zhengzhou Baiwai Intelligent Automation, National University Tech Park, Changchun Road, #11 Hi-Tech District, Zhengzhou City, Henan Province, China
33. Zhuzhou CRRC Special Equipment Technology Co., No. 79 Liancheng Road, Shifeng District, Zhuzhou City, Hunan Province 412001, China

Export Control Reform Act of 2018

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

Savings Clause

Shipments (1) removed from license exception eligibility or that are now subject to requirements in § 744.15 of the EAR as a result of this regulatory action; (2) eligible for export, reexport, or transfer (in-country) without a license before this regulatory action; and (3) on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on February 8, 2022, pursuant to actual orders, may proceed to that UVL listed person under the previous license exception eligibility or without a license so long as the items have been exported from the United States, reexported or transferred (in-country) before March 11, 2022. Any such items not actually exported, reexported, or transferred (in-country) before midnight on March 10, 2022 are subject to the requirements in § 744.15 of the EAR in accordance with this regulation.

Rulemaking Requirements

Executive Order Requirements

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

This rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

Paperwork Reduction Act Requirements

Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless

that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under the following control numbers: 0694–0088, 0694–0122, 0694–0134, and 0694–0137.

This rule slightly increases public burden in a collection of information approved by OMB under control number 0694–0088, which authorizes, among other things, export license applications. The removal of license exceptions for listed persons on the Unverified List will result in increased license applications being submitted to BIS by exporters. Total burden hours associated with the Paperwork Reduction Act and OMB control number 0694–0088 are expected to increase minimally, as the removal of license exceptions will only affect transactions involving persons added to the Unverified List and not all export transactions. Because license exception eligibility is removed for these entities added to the UVL, this rule decreases public burden in a collection of information approved by OMB under control number 0694–0137 minimally, as this will only affect specific individual listed persons. The increased burden under 0694–0088 is reciprocal to the decreased burden under 0694–0137, and results in no change of burden to the public. This rule also increases public burden in a collection of information under OMB control number 0694–0122, as a result of the exchange of UVL statements between private parties, and under OMB control number 0694–0134, as a result of appeals from persons listed on the UVL for the addition of their listing. The total increase in burden hours associated with both of these collections is expected to be minimal, as they involve a limited number of persons listed on the UVL.

Any comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, may be submitted online at *https://www.reginfo.gov/public/do/PRAMain.* Find the particular information collection by using the search function and entering the OMB Control Number, 0694–0088, 0694–0122, 0694–0134, or 0694–0137.

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

Administrative Procedure Act and Regulatory Flexibility Act Requirements

Pursuant to Section 4821 of ECRA, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking and opportunity for public participation.

Further, no other law requires notice of proposed rulemaking or opportunity for public comment for this interim final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 2. Supplement No. 6 to part 744 is amended by:

■ a. Removing the country name of ''CHINA'' in the first column and adding ''CHINA, PEOPLE'S REPUBLIC OF'' in its place; and

■ b. Adding entities for ''AECC South Industry Co., Ltd.,'' ''Beijing SWT Science,'' ''Beijing Zhonghehangxun Technology Co., Ltd.,'' ''China National Erzhong Group Deyang Wanhang Die Forging Co., Ltd.,'' ''Chuzhou HKC Optoelectronics Technology Co., Ltd.,'' ''Dongguan Durun Optical Technology Co., Ltd.,'' ''Dongguan Huiqun Electronic Co., Ltd.,'' ''Guangdong Guanghua Sci-Tech Co.,'' ''Guangxi Intai Technology Co., Ltd.,'' ''Guangzhou Hymson Laser Tehnology Co., Ltd.,'' ''Harbin Xinguang Feitian,'' ''Hefei Anxin Reed Precision Co., Ltd.,'' ''Heshan Deren Electronic Technology Co., Ltd.,'' ''Hubei Longchang Optical Co., Ltd.,'' ''Hubei Sinophorus Electronic Materials Co., Ltd.,'' ''Hunan University,'' ''Jinan Bodor CNC Machine Co., Ltd.,'' ''Jiutian Intelligent Equipment Co., Ltd.,'' ''Kunshan Heng Rui Cheng Industrial Technology Co., Ltd.,'' ''Shanghai Fansheng Optoelectronic Science & Technology Co., Ltd.,'' ''Shanghai Micro Electronics Equipment (Group) Co., Ltd.,'' ''Shuang Xiang (Fujian) Electronics,'' ''Southern University of Science and Technology,'' ''Suzhou Chaowei Jingna Optoelectric Co., Ltd.,'' ''Suzhou Gyz Electronic Technology Co., Ltd.,'' ''Suzhou Lylap Mould Technology Co., Ltd.,'' ''Wuxi Biologics Co., Ltd.,'' ''Wuxi Biologics (Shanghai) Co., Ltd.,'' ''Wuxi Turbine Blade Co., Ltd.,'' ''Yunnan Fs Optics Co., Ltd.,'' ''Yunnan Tianhe Optoelectronic Co., Ltd.,'' ''Zhengzhou Baiwai Intelligent Automation,'' and ''Zhuzhou CRRC Special Equipment Technology Co.'' in alphabetical order under ''CHINA, PEOPLE'S REPUBLIC OF''.

The additions read as follows:

SUPPLEMENT NO. 6 TO PART 744—UNVERIFIED LIST

* * * * *

Country	Listed person and address	Federal Register citation and date of publication
* *	* * *	* *
CHINA, PEOPLE'S REPUBLIC OF	* * *	* *
	AECC South Industry Co., Ltd., Dongjiaduan, Lusong District, Zhuzhou, Hunan Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *

Country	Listed person and address	**Federal Register** citation and date of publication
	Beijing SWT Science, Yingbinbei Road 36, Yanjiao Economic & Development Zone, Sanhe City, Hebei Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Beijing Zhonghehangxun Technology Co., Ltd., Room 1705, Kaixuancheng Building E, No. 170 Beiyuan Road, Chaoyang District, Beijing, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	China National Erzhong Group Deyang Wanhang Die Forging Co., Ltd., No. 460 Zhujiang Road West, Deyang City, Sichuan Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Chuzhou HKC Optoelectronics Technology Co., Ltd., No.101 Suchu Ave., Economic and Technological Development Zone, Nanqiao District, Chuzhou, Anhui Province 239000 China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Dongguan Durun Optical Technology Co., Ltd., Building M Shing'ang Industrial Area, Houda Road, Dalingshan, Dongguan, Guangdong Province 523000, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Dongguan Huiqun Electronic Co., Ltd., 30 Daling Street, Jiaoyitang, Tangxia Town, Dongguan City, Guangdong Province 523723, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Guangdong Guanghua Sci-Tech Co., No. 295 Daxue Road, Shantou, Guangdong Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Guangxi Intai Technology Co., Ltd., 1 Jianan Road, Liuzhou City, Guangxi Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Guangzhou Hymson Laser Tehnology Co., Ltd., No. 2 Shiling Road, Dongchong Town, Nanshan District, Guangzhou, Guangdong Province 511453, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Harbin Xinguang Feitian, 1717 Chuangxin Yi Road, Harbin, Heilongjiang Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Hefei Anxin Reed Precision Co., Ltd., No. 15 South Feiyang Road, Dayang Industry Park, Luyang District, Hefei City, Anhui Province 230000, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Heshan Deren Electronic Technology Co., Ltd., No. 13 Hongjiang Road, Heshan Industry City, Heshan City, Guangdong Province 529728, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Hubei Longchang Optical Co., Ltd., No. 4 Group Lianhuayan Village, Yaojiadian Town, Yidu City, Hubei Province 44300, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Hubei Sinophorus Electronic Materials Co., Ltd., No. 66–3, Xiaoting Road, Yichang, Hubei Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Hunan University, State Key Lab of Chemo/Biosensing & Chemometrics, Lushan Road, Yuelu District, Changsha, Hunan Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Jinan Bodor CNC Machine Co., Ltd., 1299 Xinluo Ave., Hi-Tech Zone, Jinan, Shandong Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Jiutian Intelligent Equipment Co., Ltd., Woyun Road, Taohue Industry Park, Hefei Economic Zone, Hefei, Anhui Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *

Country	Listed person and address	Federal Register citation and date of publication
	Kunshan Heng Rui Cheng Industrial Technology Co., Ltd., No. 1088 Datong Road, Penglang Town, Kunshan Development Zone, Kunshan, Jiangsu 215300, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Shanghai Fansheng Optoelectronic Science & Technology Co., Ltd., No. 56 Jungong Road, Yangpu District, Shanghai, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Shanghai Micro Electronics Equipment (Group) Co., Ltd., No. 1525 Zhangdong Road, Zhangjiang Hi-Tech Park, Pudong, Shanghai, Shanghai, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Shuang Xiang (Fujian) Electronics, No. 158 Jiangbin East Ave., Mawei, Fuzhou, Fujian 350300, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Southern University of Science and Technology, Department of Mechanical and Energy Engineering, 1088 Xueyuan Ave., Nanshan District, Shenzhen, Guangdong 518055, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Suzhou Chaowei Jingna Optoelectric Co., Ltd., No. 97–1 Dongyuan Road, Jinting Town, Wuzhong District, Suzhou, Jiangsu, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Suzhou Gyz Electronic Technology Co., Ltd., No. 629 Songjiagang Road, Zhoushi Town, Kunshan City, Jiangsu Province 215314, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Suzhou Lylap Mould Technology Co., Ltd., No. 66–26 Linggang Road, Luzhi Town, Wuzhong District, Suzhou, Jiangsu Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Wuxi Biologics Co., Ltd., No. 108, Warehouse, Meiliang Road, Mashan Binghu, Wuxi, China, *and* No. 178 West Meiliang Road, Mashan Binghu District, Wuxi, China, *and* No. 200 Meiling Road, Mashan Town, Binhu District, Wuxi City, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Wuxi Biologics (Shanghai) Co., Ltd., Room 701, 7F, No. 02 Huajing Road, Waigaoqiao Free Trade Zone, Shanghai, China, *and* Bldg. 71–B, 96 Yiwei Road, Waigaoqiao Free Trade Zone, Shanghai, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Wuxi Turbine Blade Co., Ltd., 1800 Huishan Avenue, Huishan Economic Development District, Wuxi, Jiangsu Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Yunnan Fs Optics Co., Ltd., Hongta Industrial Zone, Hongta District, Yuxi, Yunnan Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	Yunnan Tianhe Optoelectronic Co., Ltd., Longquan Avenue, Longquan Industrial Zone, Jiangchuan, Yuxi City, Yunnan Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Zhengzhou Baiwai Intelligent Automation, National University Tech Park, Changchun Road #11 Hi-Tech District, Zhengzhou City, Henan Province, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.
	* * *	* *
	Zhuzhou CRRC Special Equipment Technology Co., No. 79 Liancheng Road, Shifeng District, Zhuzhou City, Hunan Province 412001, China.	87 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 2/8/2022.

* * * * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2022–02536 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0028]

Security Zone; Potomac River and Anacostia River, and Adjacent Waters; Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a security zone along the Potomac River and Anacostia River, and adjacent waters at Washington, DC, for activities associated with the U.S. President's State of the Union Address before a Joint Session of Congress. The zone will be enforced on March 1, 2022 through the early morning hours on March 2, 2022. This action is necessary to protect government officials, mitigate potential terrorist acts and incidents, and enhance public and maritime safety and security immediately before, during, and after this activity. During the enforcement period, entry into or remaining within the zone is prohibited unless authorized by the Captain of the Port or his designated representative.

DATES: The regulations in 33 CFR 165.508 will be enforced from 9 a.m. on March 1, 2022 until 2 a.m. on March 2, 2022, for the security zone locations identified in 33 CFR 165.508(a)(6).

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Mr. Ron Houck, U.S. Coast Guard Sector Maryland-National Capital Region (Waterways Management Division); telephone 410–576–2674, email *D05-DG-SectorMD-NCR-Prevention-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce regulations in 33 CFR 165.508 for the zone locations identified in paragraph (a)(6) from 9 a.m. on March 1, 2022 to 2 a.m. on March 2, 2022. This action is being taken to protect government officials, mitigate potential terrorist acts and incidents, and enhance public and maritime safety and security immediately before, during, and after this event. Our regulations for the Security Zone; Potomac River and Anacostia River, and adjacent waters; Washington, DC, § 165.508(a)(6), specifies the location for this security zone as an area that includes all navigable waters described in paragraphs (a)(1) through (a)(3), which includes Zones 1, 2, and 3.

- Security Zone 1, paragraph (a)(1); all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by the Francis Scott Key (US–29) Bridge, at mile 113, and bounded to the south by a line drawn from the Virginia shoreline at Ronald Reagan Washington National Airport, at 38°51′21.3″ N, 077°02′00.0″ W, eastward across the Potomac River to the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, including the waters of the Boundary Channel, Pentagon Lagoon, Georgetown Channel Tidal Basin, and Roaches Run.
- Security Zone 2, paragraph (a)(2); all navigable waters of the Anacostia River, from shoreline to shoreline, bounded to the north by the John Philip Sousa (Pennsylvania Avenue) Bridge, at mile 2.9, and bounded to the south by a line drawn from the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, southward across the Anacostia River to the District of Columbia shoreline at Giesboro Point at position 38°50′52.4″ N, 077°01′10.9″ W, including the waters of the Washington Channel.
- Security Zone 3 paragraph (a)(3); all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn from the Virginia shoreline at Ronald Reagan Washington National Airport, at 38°51′21.3″ N, 077°02′00.0″ W, eastward across the Potomac River to the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, thence southward across the Anacostia River to the District of Columbia shoreline at Giesboro Point at position 38°50′52.4″ N, 077°01′10.9″ W, and bounded to the south by the Woodrow Wilson Memorial (I–95/I–495) Bridge, at mile 103.8.

During the enforcement period, as specified in § 165.508(b), entry into or remaining in these zones is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. Public vessels and vessels already at berth at the time the security zone is implemented do not have to depart the security zone. All vessels underway within the security zone at the time it is implemented are to depart the zone at the time the security zone is implemented. To seek permission to transit the zone, the Captain of the Port Maryland-National Capital Region can be contacted at telephone number (410) 576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Coast Guard vessels enforcing this zone can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard may be assisted by other Federal, state or local law enforcement agencies in enforcing this regulation. If the Captain of the Port or his designated on-scene patrol personnel determines the security zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to suspend enforcement and grant general permission to enter the security zone.

In addition to this notice of enforcement in the **Federal Register,** the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, and marine information broadcasts.

Dated: February 3, 2022.

James R. Bendle,

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

[FR Doc. 2022–02583 Filed 2–7–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0107; FRL–9426–03–R9]

Determination To Defer Sanctions; Arizona; Maricopa County; Power Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: The Environmental Protection Agency (EPA) is making an interim final determination that the Arizona Department of Environmental Quality (ADEQ) has submitted a revised rule on behalf of the Maricopa County Air Quality Department (MCAQD or County) that corrects deficiencies in its Clean Air Act (CAA or Act) state implementation plan (SIP) provisions concerning ozone nonattainment requirements for controlling oxides of nitrogen (NO_X) at power plants. This determination is based on a proposed approval, published elsewhere in this **Federal Register,** of MCAQD's Rule 322 regulating that source category. The effect of this interim final determination is that the imposition of sanctions that

were triggered by a previous disapproval by the EPA in 2020 is now deferred. If the EPA finalizes its approval of MCAQD's submission, relief from these sanctions will become permanent.

DATES: This determination is effective on February 8, 2022. However, comments will be accepted on or before March 10, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0107 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3073 or by email at *gong.kevin@epa.gov.*

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

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I. Background
II. The EPA's Evaluation and Action
III. Statutory and Executive Order Reviews

I. Background

On July 20, 2020 (85 FR 43692), the EPA issued a final disapproval for MCAQD's Rule 322 that had been submitted by the ADEQ to the EPA for inclusion into the Arizona SIP. The 2020 action addressed the requirement that the MCAQD implement reasonably available control technology (RACT) for emissions sources in ozone nonattainment areas under the Act. In that action, we determined that the Rule 322 submittal included several deficiencies that precluded our approval of the rule into the SIP, and thus failed to implement RACT. Therefore, our 2020 action included a disapproval of the SIP revision under title I, part D of the Act, relating to requirements for nonattainment areas. Pursuant to section 179 of the CAA and our regulations at 40 CFR 52.31, this disapproval action under title I, part D started a sanctions clock for imposition of offset sanctions 18 months after the action's effective date of August 19, 2020, and highway sanctions 6 months later.

On June 23, 2021, the MCAQD revised Rule 322 and on June 24, 2021, ADEQ submitted the SIP revision to the EPA for approval into the Arizona SIP. The revision is intended to address the disapproval issues under title I, part D that we identified in our 2020 action. In the Proposed Rules section of this **Federal Register,** we have proposed approval of the revised MCAQD Rule 322. Based on this proposed approval action, we are also taking this interim final determination, effective on publication, to defer imposition of the offset sanctions and highway sanctions that were triggered by our 2020 action's disapproval, because we believe that the 2020 submittal corrects the deficiencies that triggered such sanctions.

The EPA is providing the public with an opportunity to comment on this deferral of sanctions. If comments are submitted that change our assessment described in this interim final determination and the proposed full approval of MCAQD Rule 322 with respect to the title I, part D deficiencies identified in our 2020 action, we would take final action to lift this deferral of sanctions under 40 CFR 52.31. If no comments are submitted that change our assessment, then all sanctions and any sanction clocks triggered by our 2020 action would be permanently terminated on the effective date of our final approval of MCAQD Rule 322.

II. The EPA's Evaluation and Action

We are making an interim final determination to defer CAA section 179 sanctions associated with our disapproval action on July 20, 2020, of MCAQD Rule 322 with respect to the requirements of part D of title I of the CAA. This determination is based on our concurrent proposal to fully approve Rule 322, which resolves the deficiencies that triggered sanctions under section 179 of the CAA.

Because the EPA has preliminarily determined that MCAQD's submittal of Rule 322 addresses the deficiencies under part D of title I of the CAA identified in our 2020 action and is fully approvable, relief from sanctions should be provided as quickly as possible. Therefore, the EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action, the EPA is providing the public with a chance to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has submitted a revision to the SIP that corrects deficiencies under part D of the Act that were the basis for the action that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

III. Statutory and Executive Order Reviews

This action defers sanctions and imposes no additional requirements. For that reason, this action:

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

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

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

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

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

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

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

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

• Is subject to the Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.,* and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section II of this preamble, including the basis for that finding.

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 April 11, 2022. Filing a petition for reconsideration by the EPA Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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 CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: February 1, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–02463 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 17–59; FCC 20–187; FCC 21–126; FR ID 70178]

Advanced Methods To Target and Eliminate Unlawful Robocalls, Fourth Report and Order and Order on Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) announces that the Office of Management and Budget (OMB) has approved the public information collections associated with the Advanced Methods to Target and Eliminate Unlawful Robocalls, Fourth Report and Order and Order on Reconsideration. This document is consistent with the Fourth Report and Order and Order on Reconsideration which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the information collection requirements.

DATES: The additions of § 64.1200(k)(10) and (n)(2), published at 86 FR 17726, April 6, 2021, and revision of § 64.1200(k)(10), published at 86 FR 74373, December 30, 2021, are effective March 10, 2022.

FOR FURTHER INFORMATION CONTACT: Jerusha Burnett, *Jerusha.Burnett@fcc.gov* or (202) 418–0526, of the Consumer and Governmental Affairs Bureau, Consumer Policy Division.

SUPPLEMENTARY INFORMATION: This document announces that, on October 4, 2021, OMB approved the information collection requirements contained in the Commission's Advanced Methods to Target and Eliminate Unlawful Robocalls Fourth Report and Order, FCC 20–187, published at 86 FR 17726, April 6, 2021, and Order on Reconsideration, FCC 21–126, published at 86 FR 74373, December 30, 2021. The OMB Control Numbers are 3060–1292. The Commission publishes this document as an announcement of the effective date of the information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval for the information collection requirements contained in the Commission's rules on October 4, 2021 and the non-substantive changes in the Order on Reconsideration were approved by OMB on January 20, 2022.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB control number which is 3060–1292.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control No.: 3060–1292.

OMB Approval Date: October 4, 2021.

OMB Expiration Date: October 31, 2024.

Title: Advanced Methods to Target and Eliminate Unlawful Robocalls, Fourth Report and Order, CG Docket No. 17–59, FCC 20–187.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents: 6,493 respondents and 582,434 annual responses.

Estimated Time per Response: .25 to 40 hours.

Frequency of Response: On occasion reporting requirement, On-going reporting requirement and Third-party Disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 154(i), 201, 202, 217, 227, 251(e), 303(r) and 403.

Total Annual Burden: 199,412 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission adopted a new information collection

associated with the Advanced Methods to Target and Eliminate Unlawful Robocalls Fourth Report and Order (''Call Blocking Fourth Report and Order''), FCC 20–187. In 2019, Congress passed the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. In addition to directing the Commission to mandate adoption of caller ID authentication technology and encourage voice service providers to block calls by establishing safe harbors, the TRACED Act directs the Commission to ensure that both consumers and callers are provided with transparency and effective redress when calls are blocked in error. In the Call Blocking Fourth Report and Order, the Commission adopted a notification requirement and a blocked calls list requirement to better protect consumers from unwanted and illegal robocalls and implement the TRACED Act. While most of the requirements the Commission adopted in the Call Blocking Fourth Report and Order did not include an information collection, two of the requirements required approval prior to implementation.

First, 47 CFR 64.1200(n)(2) establishes an affirmative obligation that voice service providers effectively mitigate illegal traffic when notified of such traffic by the Commission's Enforcement Bureau. The rule requires that voice service providers receiving notice from the Commission report back with specific information about their investigation and response to such investigation. This requirement gives the Commission an important tool in the fight to stop illegal calls.

Second, 47 CFR 64.1200(k)(10), in order to enhance transparency for consumers, requires that any terminating voice service provider that blocks calls on an opt-in or opt-out basis must provide, on the request of the subscriber to a particular number, a list of all calls intended for that number that the voice service provider or its designee has blocked.

Subsequent to OMB approval of this information collection, the Commission released an Order on Reconsideration, ''Advanced Methods to Target and Eliminate Unlawful Robocalls—Petition for Reconsideration and Request for Clarification of USTelecom—The Broadband Association,'' CG Docket No. 17–59, FCC 21–126, 86 FR 74373, December 30, 2021. Among other things, this Order on Reconsideration clarified aspects of 47 CFR 64.1200(k)(10). In doing so, the Commission added clarifying language to the existing rule. OMB approved the Commission's non-substantive change request for this change on January 20, 2022.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2022–02485 Filed 2–7–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 22–95; FRS 70458]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the FM Table of Allotments, of the Commission's rules, by removing certain vacant FM allotment channels that were auctioned through our FM competitive bidding process or undergone FM noncommercial filing window, and are no longer considered vacant FM allotments. The FM allotments are currently authorized licensed stations. FM assignments for authorized stations and reserved facilities will be reflected solely in Media Bureau's Licensing Management System (LMS). These FM allotment channels have previously undergone notice and comment rulemaking. This action constitutes an editorial change in the FM Table of Allotments. Therefore, we find for good cause that further notice and comment are unnecessary.

DATES: Effective February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* adopted January 28, 2022 and released January 28, 2022. The full text of this Commission decision is available online at *https://apps.fcc.gov/ecfs/*. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will not send a copy of the *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the *Order* is a ministerial action.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 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, amend table 1 to paragraph (b) as follows:

■ a. Remove the entry for ''Waverly'' under Alabama;

■ b. Remove the entries for ''Bagdad,'' ''Peach Springs,'' ''Quartzsite,'' ''Rough Rock,'' and ''Somerton'' under Arizona;

■ c. Remove the entries for ''Dermott'' and ''Heber Springs'' under Arkansas;

■ d. Remove the entries for ''Barstow,'' ''Hemet,'' ''Lake Isabella,'' ''Shasta Lake,'' ''Sutter Creek,'' ''Westley,'' and ''Wofford Heights'' under California;

■ e. Remove the entries for ''Akron'' and ''Dove Creek'' under Colorado;

■ f. Remove the entries for ''Maysville'' and ''Tignall'' under Georgia;

■ g. Remove the entry for ''Kualapuu'' under Hawaii;

■ h. Remove the entry for ''McCall'' under Idaho;

■ i. Remove the entry for ''Terre Haute'' under Indiana;

■ j. Remove the entry for ''Perryville'' under Kentucky;

■ k. Remove the entries for ''Bastrop'' and ''Rosepine'' under Louisiana;

■ l. Remove the entry for ''Newark'' under Maryland;

■ m. Remove the entries for ''Baudette,'' ''Grand Portage,'' and ''Red Lake'' under Minnesota;

■ n. Remove the entries for ''Drew,'' ''Mound Bayou,'' and ''Summit'' under Mississippi;

■ o. Remove the entries for ''Columbia'' and ''Laurie'' under Missouri;

■ p. Remove the entries for ''Bozeman'' and ''Lima'' under Montana;

■ q. Remove the entry for ''Silver Springs'' under Nevada;

■ r. Remove the entries for ''Crownpoint,'' ''Roswell,'' ''Tohatchi,'' and ''Virden'' under New Mexico;

■ s. Remove the entries for ''Amherst,'' ''Livingston Manor,'' ''Rhinebeck,'' and ''Rosendale'' under New York;

■ t. Remove the entry for ''Dillsboro'' under North Carolina;

■ u. Remove the entries for ''Connerville,'' ''Hennessey,'' and ''Waukomie'' under Oklahoma;

■ v. Remove the entries for ''Altamont,'' ''Boardman,'' ''Dallas,'' ''Manzanita,'' ''Merrill,'' ''Moro,'' ''Prineville,'' and ''Waldport'' under Oregon;
■ w. Remove the entry for ''Eagle Butt'' under South Dakota;
■ x. Remove the entries for ''Annona,'' ''Austwell,'' ''Batesville,'' ''Big Spring,'' ''Carbon,'' ''Christine,'' ''Cotulla,'' ''Crosbyton,'' ''Cuney,'' ''Early,'' ''Encinal,'' ''Garwood,'' ''Goldwaithe,'' ''Guthrie,'' ''Harper,'' ''Hawley,'' '' Hebbronville,'' ''Hico,'' ''Jacksonville,'' ''Llano,'' ''Longview,'' ''Matagorda,'' ''Meyersville,'' ''Midway,'' ''Moody,'' ''Moran,'' ''Muleshoe,'' ''Newcastle,'' ''Oakwood,'' ''Paducah,'' ''Port Isabel,'' ''Presidio,'' ''Quanah,'' ''Smiley,'' ''Spur;'' and revise the entries for ''Junction,'' ''Knox City,'' ''Leakey,'' ''Mason,'' ''Memphis,'' ''Palacios,'' ''Roaring Springs,'' ''Sanderson,'' and ''Turkey'' under Texas;
■ y. Remove the entry for ''Toquerville'' under Utah;
■ z. Remove the entry for ''Chincoteague'' under Virginia;
■ aa. Remove the entry for ''Dayton;'' and revise the entry for ''Oak Harbor '' under Washington;
■ bb. Remove the entry for ''Baggs'' under Wyoming.

The revisions read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)

U.S. States	Channel No.
* * * * *	
TEXAS	
* * * * *	
Junction	277C3
* * * * *	
Knox City	293A
Leakey	275A, 299A
* * * * *	
Mason	239C2
* * * * *	
Memphis	292A
* * * * *	
Palacios	259C1
* * * * *	
Roaring Springs	227A
* * * * *	
Sanderson	274C1
* * * * *	
Turkey	221C2

TABLE 1 TO PARAGRAPH (b)—Continued

U.S. States	Channel No.
* * * * *	
WASHINGTON	
* * * * *	
Oak Harbor	*233A
* * * * *	

* * * * *

[FR Doc. 2022–02434 Filed 2–7–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220103–0001; RTID 0648–XB782]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2022 Management Area 3 Possession Limit Adjustment

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

ACTION: Temporary rule; possession limit adjustment.

SUMMARY: NMFS is implementing a 2,000-lb (907.2-kg) possession limit for Atlantic herring for Management Area 3. This is required because NMFS projects that herring catch from Area 3 will reach 98 percent of the Area's sub-annual catch limit before the end of the fishing year. This action is intended to prevent overharvest of herring in Area 3, which would result in additional catch limit reductions in a subsequent year.

DATES: Effective 17:00 hr local time, February 4, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Management Specialist, (978) 281–9196.

SUPPLEMENTARY INFORMATION: The Regional Administrator of NMFS's Greater Atlantic Regional Fisheries Office monitors herring fishery catch in each Management Area based on vessel and dealer reports, state data, and other available information. Regulations at 50 CFR 648.201(a)(1)(i)(B)(*2*) require that we implement a 2,000-lb (907.2-kg) possession limit for herring for Area 3 beginning on the date that catch is projected to reach 98 percent of the sub-annual catch limit (ACL) for that area.

Based on vessel reports, dealer reports, and other available information, the Regional Administrator projects that the herring fleet will have caught 98 percent of the Area 3 sub-ACL by February 4, 2022. Therefore, effective 17:00 hr local time February 4, 2022, through December 31, 2022, a person may not attempt or do any of the following: Fish for; possess; transfer; purchase; receive; land; or sell more than 2,000 lb (907.2-kg) of herring per trip or more than once per calendar day in or from Area 3.

Vessels that enter port before 17:00 local time on February 4, 2022, may land and sell more than 2,000 lb (907.2-kg) of herring from Area 3 from that trip, provided that catch is landed in accordance with state management measures. Vessels may transit or land in Area 3 with more than 2,000 lb (907.2-kg) of herring on board, provided that: The herring were caught in an area not subject to a 2,000-lb (907.2-kg) limit; all fishing gear is stowed and not available for immediate use; and the vessel is issued a permit appropriate to the amount of herring on board and the area where the herring was harvested.

Also effective 17:00 hr local time, February 4, 2022, through 24:00 hr local time, December 31, federally permitted dealers may not attempt or do any of the following: Purchase; receive; possess; have custody or control of; sell; barter; trade; or transfer more than 2,000 lb (907.2-kg) of herring per trip or calendar day from Area 3, unless it is from a vessel that enters port before 17:00 local time on February 4, 2022, and catch is landed in accordance with state management measures.

This 2,000-lb (907.2-kg) possession limit bypasses the 40,000-lb (18,143.7-kg) possession limit that is required when NMFS projects that 90 percent of the sub-ACL will be caught. Regulations at § 648.201(a)(1)(i)(B)(*1*) require NMFS to implement a 40,000-lb (18,143.7-kg) possession limit for herring for Area 3 beginning on the date that catch is projected to reach 90 percent of the herring sub-ACL for that area. Based on dealer reports, state data, and other available information, we project that 90 percent of the Area 3 sub-ACL will be harvested by February 3, 2022. However, due to the low 2022 sub-ACLs, the high volume nature of this fishery, and the progress of catch this fishing year, we project that 98 percent of the sub-ACL in Area 3 will be harvested by February 4, 2022. The low amount of catch and limited time between the 90 percent and 98 percent

catch projections makes it impracticable and unnecessarily risky to implement the 40,000-lb (18,143.7-kg) possession limit. The limited time and the relatively low available catch could also encourage a small derby fishery. To avoid a potential sub-ACL overage and any potential changes in fishing incentives that could contribute to an overage, NMFS is bypassing the 40,000-lb (18,143.7-kg) possession limit and instead immediately implementing the 2,000-lb (907.2-kg) possession limit in Area 3.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it is unnecessary, contrary to the public interest, and impracticable. Ample prior notice and opportunity for public comment on this action has been provided for the required implementation of this action. The requirement to implement this possession limit was developed by the New England Fishery Management Council using public meetings that invited public comment on the measures when they were developed and considered along with alternatives. Further, the regulations requiring NMFS to implement this possession limit also were subject to public notice and opportunity to comment when they were first adopted in 2021. Herring fishing industry participants monitor catch closely and anticipate potential possession limit adjustments as catch totals approach Area sub-ACLs. The regulation provides NMFS with no discretion and is designed for implementation as quickly as possible to prevent catch from exceeding limits designed to prevent overfishing while allowing the fishery to achieve optimum yield.

The 2022 herring fishing year began on January 1, 2022. Data indicating that the herring fleet will have landed at least 98 percent of the 2022 sub-ACL allocated to Area 3 only recently became available. High-volume catch and landings in this fishery can increase total catch relative to the sub-ACL quickly, especially in this fishing year where annual catch limits are unusually low. If implementation of this possession limit adjustment is delayed to solicit prior public comment, the 2022 sub-ACL for Area 3 will likely be exceeded; thereby undermining the conservation objectives of the Herring Fishery Management Plan (FMP). If sub-ACLs are exceeded, the excess must be deducted from a future sub-ACL and would reduce future fishing opportunities. The public expects these actions to occur in a timely way consistent with the FMP's objectives. For the reasons stated above, NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance with 5 U.S.C 553(d)(3).

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

Dated: February 3, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–02597 Filed 2–3–22; 4:15 pm]

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Proposed Rules

Federal Register

Vol. 87, No. 26

Tuesday, February 8, 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 Parts 429 and 431

[EERE–2022–BT–STD–0002]

RIN 1904–AC55

Energy Conservation Program: Energy Conservation Standards for Fans and Blowers

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') is evaluating potential energy conservation standards for fans and blowers, including air circulating fans. Through this request for information (''RFI''), DOE seeks data and information to help determine whether potential energy conservation standards for fans and blowers, including air circulating fans, would result in standards that are technologically feasible and economically justified while producing significant conservation of energy. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), 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 March 10, 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–0002, by any of the following methods:

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

2. *Email:* To *FansAndBlowers2022STD0002@ee.doe.gov.* Include docket number EERE–2022–BT–STD–0002 in the subject line of the message.

No telefacsimilies (''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 the Federal eRulemaking Portal, email, postal mail, or hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing coronavirus 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, 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-0002.* 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:

Mr. 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.*

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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, 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.

EPCA specifies a list of equipment that constitutes covered equipment

[1] All references to EPCA in this document refer to the statute as amended through the Infrastructure Investment and Jobs Act, Public Law 117–58 (Nov. 15, 2021).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

(hereafter referred to as ''covered equipment'').[3] EPCA also provides that ''covered equipment'' includes any other type of industrial equipment for which the Secretary of Energy (''Secretary'') determines inclusion is necessary to carry out the purpose of Part A–1. (42 U.S.C. 6311(1)(L); 42 U.S.C. 6312(b)) EPCA specifies the types of industrial equipment that can be classified as covered in addition to the equipment enumerated in 42 U.S.C. 6311(1) This industrial equipment includes fans and blowers. (42 U.S.C. 6311(2)(B)(ii) and (iii)) Additionally, industrial equipment must be of a type that consumes, or is designed to consume, energy in operation; is distributed in commerce for industrial or commercial use[4]; and is not a covered product as defined in 42 U.S.C. 6291(a)(2) other than a component of a covered product with respect to which there is in effect a determination under 42 U.S.C. 6312(c). (42 U.S.C. 6311(2)(A)) On August 19, 2021, DOE published a final determination that the inclusion of fans and blowers as covered equipment was necessary to carry out the purpose of Part A–1 and classified fans and blowers as covered equipment. 86 FR 46579, 46588. Air circulating fans are a class of fans and blowers.

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; 42 U.S.C. 6296)

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 (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 of EPCA. (42 U.S.C. 6316(b)(2)(D))

In proposing new standards, DOE must evaluate that proposal against the criteria of 42 U.S.C. 6295(o), as described in section I.C of this document, and follow the rulemaking procedures set out in 42 U.S.C. 6295(p). (42 U.S.C. 6316(a)) DOE is publishing this RFI consistent with its obligations in EPCA.

B. Rulemaking History

On June 28, 2011, DOE published a notice of proposed determination of coverage proposing to determine that fans, blowers, and fume hoods qualify as covered equipment. 76 FR 37678. DOE noted that there are no statutory definitions for ''fan,'' ''blower,'' or ''fume hood,'' and presented definitions for consideration. 76 FR 37678, 37679. DOE subsequently published a framework document on February 1, 2013 detailing the analytical approach for developing potential energy conservation standards for commercial and industrial fans and blowers should the Secretary classify such equipment as covered equipment (''Framework Document''). 78 FR 7306. In the Framework Document, DOE determined that it lacks authority to establish energy conservation standards for fume hoods because fume hoods are not listed as a type of equipment for which DOE could establish standards. (Docket EERE–2013–BT–STD–0006, No. 1 at p. 15) DOE acknowledged that the fan, which provides ventilation for the fume hood, consumes the largest portion of energy within the fume hood system, and that DOE planned to cover all commercial and industrial fan types, which includes fans used to ventilate fume hoods. *Id.*

On December 10, 2014, DOE published a notice of data availability that presented a provisional analysis estimating the economic impacts and energy savings from potential energy conservation standards for certain fans and blowers. This analysis did not include air circulating fans. 79 FR 73246.

On April 1, 2015, DOE published a notice of intent to establish an Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') Working Group for fans (hereafter referred to as the ''Working Group''). 80 FR 17359.

The Working Group commenced negotiations at an open meeting on May 18, 2015 and held 16 meetings and three webinars to discuss scope, metrics, test procedures, and standard levels for fans and blowers.[5] The Working Group concluded its negotiations on September 3, 2015, and, by consensus vote,[6] approved a term sheet containing 27 recommendations related to scope, test procedure and energy conservation standards (''term sheet'').[7] *See* Docket No. EERE–2013–BT–STD–0006, No. 179. ASRAC approved the term sheet on September 24, 2015. The Working Group term sheet recommended the exclusion of circulating fans.[8]

On May 10, 2021, DOE published a request for information requesting comments on a potential fan or blower definition. 86 FR 24752 (''May 2021 RFI''). On August 19, 2021, DOE published in the **Federal Register** a final coverage determination classifying fans and blowers as covered equipment (''August 2021 Final Coverage Determination''). 86 FR 46579.

To date, DOE has not proposed test procedures or energy conservation standards for fans and blowers, including air circulating fans.

C. 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)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3))

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

[3] ''Covered equipment'' means one of the following types of industrial equipment: Electric motors and pumps; small commercial package air conditioning and heating equipment; large commercial package air conditioning and heating equipment; very large commercial package air conditioning and heating equipment; commercial refrigerators, freezers, and refrigerator-freezers; automatic commercial ice makers; walk-in coolers and walk-in freezers; commercial clothes washers; packaged terminal air-conditioners and packaged terminal heat pumps; warm air furnaces and packaged boilers; and storage water heaters, instantaneous water heaters, and unfired hot water storage tanks. (42 U.S.C. 6311(1)(A)–(K))

[4] DOE notes that distribution for residential use does not preclude coverage as covered equipment, so long as the equipment is of a type that is also distributed in commerce for industrial and commercial use.

[5] All documentation from the Working Group meetings may be found in Docket No. EERE–2013–BT–STD–0006) at *www.regulations.gov/docket/EERE-2013-BT-STD-0006/document.*

[6] At the beginning of the negotiated rulemaking process, the Working Group defined that before any vote could occur, the Working Group must establish a quorum of at least 20 of the 25 members and defined consensus as an agreement with less than 4 negative votes. Twenty voting members of the Working Group were present for this vote. Two members (Air-Conditioning, Heating, and Refrigeration Institute and Ingersoll Rand/Trane) voted no on the term sheet.

[7] In addition to the 27 recommendations, there were five recommendations that did not receive a consensus vote. Recommendations 28, 29, 30, 31, and 32 are included in Appendix F of the term sheet and were not approved by ASRAC.

[8] *See* Recommendation 2 of the term sheet.

given rulemaking.[9] 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 the 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.

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;

(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 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 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.

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 Determination.
Technological Feasibility	Market and Technology Assessment, Screening Analysis, Engineering Analysis.
Economic Justification	
Economic Impact on Manufacturers and Consumers	Manufacturer Impact Analysis, Life-Cycle Cost and Payback Period Analysis, Life-Cycle Cost Subgroup Analysis, Shipments Analysis.
Lifetime Operating Cost Savings Compared to Increased Cost for the Product.	Markups for Product Price Determination, Energy and Water Use Determination, Life-Cycle Cost and Payback Period Analysis.
Total Projected Energy Savings	Shipments Analysis, National Impact Analysis.
Impact on Utility or Performance	Screening Analysis, Engineering Analysis.
Impact of Any Lessening of Competition	Manufacturer Impact Analysis.
Need for National Energy and Water Conservation	Shipments Analysis, National Impact Analysis.
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 establish the standards for air circulating fans.

D. 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 a 30-day comment period is sufficient given the substantial stakeholder engagement to date, as discussed in section I.B of this document. Further, the 30-day comment period will allow DOE to review comments received in response to this RFI to inform the scope of equipment considered in evaluating potential energy conservation standards, in particular whether air circulating fans should be included as part of that evaluation. DOE believes that the test procedure request for information on air circulating fan heads provided early notice that the Department is interested in evaluating potential energy savings for this equipment.

II. Request for Information

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 standards for air circulating fans may be warranted. DOE also welcomes comments on other issues relevant to its analysis that may not specifically be identified in this document.

A. Scope

On October 1, 2021, DOE published a request for information pertaining to potential test procedures for fans and blowers (''October 2021 TP RFI''). 86 FR 54412. As part of the October 2021 TP RFI, DOE discussed potential scope and definitions for air circulating fans, which include air circulating fan heads, personnel coolers, box fans, and table fans. 86 FR 54412, 54414–54415. DOE is considering including air circulating fans in its analysis of potential energy

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

conservation standards for fans and blowers.

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 air circulating fan 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 air circulating fans. DOE also reviews product literature, industry publications, and company websites. Additionally, DOE considers conducting interviews with manufacturers to improve its assessment of the market and to better understand available air circulating fan technologies.

1. Equipment Classes

When evaluating and establishing energy conservation standards, DOE may divide covered equipment into equipment classes by the type of energy used, by capacity, or by other performance-related features that may justify a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(1)) In making a determination whether a 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.* ANSI/AMCA Standard 230–15 ''Laboratory Methods of Testing Air Circulating Fans for Rating and Certification'' (''AMCA 230–15'') [10] is the industry test procedure for air circulating fans, which includes air circulating fan heads, personnel coolers, box fans, and table fans. Section 5.1. of AMCA 230–15 defines an air circulating fan as ''a non-ducted fan used for the general circulation of air within a confined space'' and provides additional definitions for air circulating fan head (section 5.1.1), ceiling fan (section 5.1.2), personnel cooler (section 5.1.3), box fan (section 5.1.4), and table fan (section 5.1.5).

Table II.2 lists the four categories of air circulating fans as defined in in AMCA 230–15. DOE is evaluating whether to consider these four categories of air circulating fans separately, or if they should be considered as a single equipment category.

TABLE II.2—DEFINITIONS OF AIR CIRCULATING FAN CATEGORIES

Category	Definition according to AMCA 230–15
Air Circulating Fan Head	An assembly consisting of a motor, impeller, and guard for mounting on a pedestal having a base and column, wall mount bracket, ceiling mount bracket, I-beam bracket, or other commonly accepted mounting means.
Box Fan	A fan used in an office or residential application and having the motor and impeller enclosed in an approximately square box frame having a handle.
Personnel Cooler	A fan used in shops, factories, etc. Generally supplied with wheels or casters on the housing or frame to aid in portability and with motor and impeller enclosed in a common guard and shroud.
Table Fan	A fan intended for use on a desk, table, or countertop. The fan may also be provided with the means for mounting to a wall.

DOE's evaluation of product literature indicates that drum fans, barrel fans, and portable blowers are also sold as air circulating fans. DOE has tentatively included these fans under the definition of personnel coolers in Table II.2 of this RFI.

DOE suggested a potential definition for air circulating fan heads in the October 2021 RFI, including that these fans are fans are designed for directional airflow. DOE is interested in understanding the type(s) of airflow typically associated with personnel coolers, box fans, and table fans. DOE will consider any feedback and comments on the flow and potential definitions for personnel cooler, box fan, and table fan in the test procedure docket (EERE–2021–BT–TP–0021).

Issue 1: DOE requests comment on whether it should consider air circulating fan heads, personnel coolers, box fans, and table fans as separate categories or whether some or all of these four categories should be grouped together when evaluating potential energy conservation standards for fans. Specifically, DOE seeks information and data on whether these four fan categories have unique features or applications that warrant separate consideration from each other or whether any of them are so similar that they should be grouped together. DOE also requests feedback on whether there are any air circulating fans that it should include in its analysis that are not listed in Table II.2 of this RFI.

Issue 2: DOE requests information on whether each of the four categories of air circulating fans shown in Table II.2 of this RFI provide general circulation of air, directional airflow, or some other type of airflow.

Issue 3: DOE requests feedback on whether air circulating fan heads, personnel coolers, box fans, or table fans could be delineated into separate equipment classes based on diameter, operating speed, efficiency, or utility. If so, DOE seeks feedback on what those equipment classes would be for the particular air circulating fan categories and what features distinguish them from one another.

Issue 4: DOE requests feedback on whether the definition of personnel coolers in Table II.2 of this RFI is sufficiently describes drum fans, barrel fans, and portable blower fans. If not, DOE requests information and data showing any differences in size, operating speed, efficiency, or utility between personnel coolers, drum fans, barrel fans, and portable blower fans.

2. Technology Assessment

In analyzing the feasibility of potential new 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 energy conservation standard level under consideration. In consultation with interested parties, DOE intends to develop a list of technologies to consider in its analysis of air circulating fans.

DOE reviewed manufacturer catalogs, recent trade publications, and technical journals to develop a list of technology

[10] ANSI/AMCA 230–15 is available at the AMCA website at *www.amca.org/publish/publications-and-standards/amca-standards/amca-standard-230-15-laboratory-methods-of-testing-air-circulating-fans-for-rating-and-certification.html.*

options that could improve the efficiency of air circulating fans. A list of potential technology options for air circulating fans is shown in Table II.3 of this document.

TABLE II.3—POTENTIAL TECHNOLOGY OPTIONS FOR AIR CIRCULATING FANS

Technology option	Description
Improved aerodynamic design.	Improving the aerodynamics of fan components that are placed in the flow of air can improve efficiency. This includes the motor housing and the rear and front fan guards but does not include blade design.
Blade shape	Adjusting the amount or direction of the curvature of the blades can improve efficiency. Airfoil blades, in particular, may offer better efficiency than other blade shapes.[11]
More efficient motors	Three-phase AC Induction motors and Brushless DC motors have improved efficiencies compared to Single-phase AC Induction motors.
	Three-phase induction motors can produce higher torque than single-phase induction motors and can therefore turn the fan shaft more efficiently. They also have less thermal energy losses than single-phase induction motors.
	Brushless DC motors are a type of permanent magnet synchronous motor, which are more efficient than induction motors due to the lack of rotor losses.
Material selection	Different materials, such as aluminum, plastic, steel, and fiberglass can be used for fan blade impellers and may improve fan efficiency.
Variable speed drives (VSDs).	VSDs allow control over fan speed for fans sold with a motor. The fan speed can be optimized to maximize efficiency for fans that experience variable loads.

Issue 5: DOE requests information on how the technologies listed in Table II.3 of this document may impact the efficiency of air circulating fans. Specifically, DOE seeks data showing how one or more of the technology options listed in Table II.3 of this RFI improves air circulating fan efficiency. Additionally, DOE requests comment on whether the technology options listed in Table II.3 of this document apply equally to the different categories of air circulating fans (*i.e.,* air circulating fan heads, personnel fans, box fans, and table fans). If not, DOE requests information on why they cannot be applied equally for the different classes.

Issue 6: DOE requests data on the impact of curved blades and airfoil blades on the efficiency of air circulating fans. Additionally, DOE requests feedback on whether any blade shapes not listed in Table II.3 are typically used for air circulating fans. DOE also requests data on the percentage of shipments for each category of air circulating fan (*i.e.,* air circulating fan heads, personnel coolers, box fans, and table fans) with curved blades, airfoil blades, or other blade types.

Issue 7: DOE requests data on the percentage of air circulating fans sold with a motor. For those fans sold with a motor, DOE seeks data on the percentage of these fans currently sold with a variable speed drive. Additionally, DOE requests information on whether a higher percentage of certain categories of air circulating fans (*i.e.,* air circulating fan heads, personnel fans, box fans, and table fans) are sold with motors and/or variable speed drives than other types.

Issue 8: DOE requests feedback on the efficiency impact of the blade materials listed in Table II.3 of this RFI for air circulating fans. Specifically, DOE requests data on the percentage of air circulating fan shipments that utilize aluminum, plastic, steel, or fiberglass for the design and manufacture of fan blades. Additionally, DOE seeks information on whether any materials not listed in Table II.3 of this RFI are used, and if so, the percentage of fans sold with these other materials.

Issue 9: DOE seeks comment on technology options not listed in Table II.3 of this document that it should consider for inclusion in its analysis of air circulating fans, or for specific categories of air circulating fans (*i.e.,* air circulating fan heads, personnel fans, box fans, and table fans) and if these technologies may impact product features or consumer utility.

Issue 10: DOE requests feedback on the order in which manufacturers would implement the technology options listed in Table II.3 of this RFI to increase the energy efficiency of air circulating fans. Additionally, DOE solicits feedback on whether the order in which the technology options listed in Table II.3 of this document might change for the different categories of air circulating fans (*i.e.,* air circulating fan heads, personnel fans, box fans, and table fans). DOE is also interested in understanding whether the increased energy efficiency from any combination of the technology options in Table II.3 of this RFI would result in design changes that would not otherwise occur. Finally, DOE requests information on how incorporating any of the technology options listed in Table II.3 of this RFI may impact other fan functions or attributes in response to consumer demand.

C. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies that improve energy 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.* DOE will only consider technologies that are incorporated in commercial products or in working prototypes.

(2) *Practicability to manufacture, install, and service.* If DOE determines that mass production of a technology in commercial products 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, DOE will eliminate that technology from further consideration.

(3) *Impacts on product utility or product availability.* If DOE determines a technology has a significant adverse impact on the utility of the product to significant subgroups of consumers, or results 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

[11] United States Department of Energy Office of Energy Efficiency and Renewable Energy (2013). Energy Conservation Standards Rulemaking Framework for Commercial and Industrial Fans and Blowers. *www.regulations.gov/document/EERE-2013-BT-STD-0006-0001, p. 34.*

United States at the time, DOE will eliminate it from further consideration.

(4) *Adverse impacts on health or safety.* If DOE determines that a technology will have significant adverse impacts on health or safety, DOE will eliminate that technology from consideration.

(5) *Unique-Pathway Proprietary Technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, DOE will eliminate that technology from consideration 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. As described above, DOE eliminates from consideration any technology options that fail to meet one or more of the five criteria.

Issue 11: 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.3 of this document with respect to air circulating fans. 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 air circulating fans.

Issue 12: DOE seeks information on the technology options listed in Table II.3 of this RFI for air circulating fans regarding their market adoption, costs, and any potential issues with incorporating them into products (*e.g.,* impacts on consumer utility, potential safety concerns, manufacturing, or production challenges, etc.). Additionally, DOE requests comment on if there are any differences in the market adoption, costs, safety, or utility of the technology options in Table II.3 of this RFI for the different categories of air circulating fans (*i.e.,* air circulating fan heads, personnel fans, box fans, and table fans).

D. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of air circulating fans. 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 equipment class, DOE estimates the baseline cost, as well as the incremental cost for the 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 national impacts analysis (''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).

a. Baseline Efficiency

For each evaluated 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. Air circulating fans do not currently have established energy conservation standards, so DOE cannot use certification values or current minimum energy conservation standards to determine a baseline for air circulating fans. Instead, DOE plans to use performance data from air circulating fans currently on the market to establish a baseline.

Issue 13: DOE requests efficiency data measured according to the ACMA 230–15 test procedure to characterize the baseline efficiency level of air circulating fans. Alternatively, DOE requests feedback on how it can best determine appropriate baseline efficiency levels for air circulating fans.

b. Maximum Available Efficiency

As part of DOE's analysis, the maximum available efficiency level is the highest efficiency unit currently available on the market. DOE also 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 and 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.

Issue 14: DOE seeks input on the maximum available efficiencies for air circulating fans and whether the maximum available efficiencies are appropriate and technologically feasible for consideration as possible energy conservation standards for air circulating fans. Additionally, DOE requests comment on whether the maximum available efficiencies for air circulating fan categories (*i.e.,* air circulating fan heads, personnel coolers, box fans, and table fans) are comparable, or whether there are significant differences in maximum efficiencies between categories.

Issue 15: DOE seeks feedback on what design options would be incorporated at a max-tech efficiency level for all categories of air circulating fans, and the efficiencies associated with those levels. As part of this request, DOE also seeks information as to whether there are limitations on the use of certain combinations of design options.

c. Differences Between Air Circulating Fans and General Fans

DOE is aware that the design and use of air circulating fans is different from the fans and blowers evaluated by the Working Group. For instance, air

circulating fans use a total pressure basis rather than a static pressure basis. Additionally, Section 5.1.1 of AMCA 214–21 uses a target of 0.66 when establishing the FEI based on the total pressure of the air circulating fan under test.

Issue 16: DOE requests comment on additional differences between air circulating fans and general fans that it should include in its analysis.

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 product 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 resulting 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.

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 the higher-efficiency products for the analyzed product classes.

As previously discussed, DOE is considering several technology options for improving the energy efficiency of air circulating fans. Those technology options are listed in Table II.3 of this document.

Issue 17: DOE requests input on the increase in MPC associated with incorporating each technology option for air circulating fans listed in Table II.3 of this document. DOE also seeks information on the investments necessary 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.

DOE is also interested in determining a realistic production cost value for air circulating fans. This information is used to inform the MPC calculation and the total cost to the industry to redesign air circulating fans.

Issue 18: DOE requests data showing the total cost of manufacturing for air circulating fan heads, personnel coolers, box fans, and table fans.

E. Distribution Channels

In generating end-user price inputs for the life-cycle cost (''LCC'') analysis and national impact analysis (''NIA''), DOE must identify distribution channels (*i.e.,* how the products are distributed from the manufacturer to the consumer) and estimate relative sales volumes through each channel. DOE is interested in developing distribution channels for each categories of air circulating fans (*i.e.,* air circulating fan heads, personnel coolers, box fans, and table fans) and may consider different channels depending on the input power of the fans or other design characteristic.

Issue 19: DOE requests information to help characterize distribution channels for air circulating fans. DOE also requests data on the fraction of sales that go through these 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 equipment when used in the field. The annual energy use of air circulating fans is calculated based on the fans' input power (in watts) and annual operating hours per year. In any future analysis, DOE may consider combining air circulating fan input power ratings in each operating mode (*e.g.,* high speed, medium speed, low speed) from the engineering analysis based on estimates of the distribution of annual operating hours at each mode.

DOE is interested in information to help characterize the annual operating hours of air circulating fans and time spend in each operating mode, if applicable.

In the absence of existing data indicating the daily hours of operation specific to air circulating fans, DOE may consider relying on the annual operating hours developed for ceiling fans as used in the final rule published on January 19, 2017. *See* 82 FR 6826, 6846–6847. For example, for air circulating fans used in commercial and industrial applications, DOE may consider an estimated 12 hours of use per day consistent with the hours of use estimated for large-diameter ceiling fans and high-speed small diameter fans as used in the final rule published on January 19, 2017. 82 FR 6826, 6847. Large-diameter ceiling fans and high-speed small diameter fans are also used in commercial and industrial applications.

Issue 20: DOE seeks information to help characterize the usage of air circulating fans. Specifically, DOE seeks input on data sources to help characterize the variability in annual energy consumption for air circulating fans. For each air circulating fan category, DOE is requesting data and information (by sectorial) related to: (1) Annual operating hours; and (2) fraction of time spent at each speed setting and standby mode (if applicable).

Issue 21: For each air circulating fan category, DOE is also interested in percentage of shipments by sector of application. To the extent any of these usage parameters differ by geographical region or other user characteristics, DOE requests information to help characterize these variations.

G. Life-Cycle Cost and Payback Period Analyses

DOE conducts the LCC and payback period (''PBP'') analysis to evaluate the economic effects of potential energy conservation standards for air circulating fans, on individual consumers. 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 consumer 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. In this section, DOE discusses specific inputs to the LCC and PBP analysis for which it requests comment and feedback.

1. Installation, Repair and Maintenance Costs

As part of a potential energy conservation standards rulemaking, should one be conducted, DOE will review available air circulating fan installation, maintenance, and repair cost information.

Issue 22: DOE requests information describing installation, maintenance, and repair practices of air circulating fans. DOE requests feedback and data on whether installation, maintenance, and repair costs of air circulating fans at higher efficiency levels differ in comparison to the baseline installation, maintenance, and repair costs. To the extent that these costs differ, DOE seeks supporting data and the reasons for those differences.

Issue 23: DOE requests information on the repair rate of each air circulating fan category (*i.e.,* percentage of fans purchased that are repaired).

2. Lifetime

The equipment lifetime is the age at which given equipment is retired from service. DOE typically develops survival probabilities using on a Weibull function to characterize variability in lifetimes. As part of a potential energy conservation standards rulemaking, DOE will review available air circulating fan lifetime data by category and sector of application.

Issue 24: DOE seeks data and input on the appropriate average, minimum, and maximum equipment lifetimes (by sector of application) for air circulating fans in years and/or in total lifetime operating hours that DOE should apply when performing its analysis.

3. Efficiency Distribution in the No-New Standards Case

To accurately estimate the share of consumers that would be affected by a potential energy conservation standard at a particular efficiency level, DOE's LCC analysis considers the projected distribution (market shares) of equipment efficiencies in the no-new-standards case (*i.e.,* the case without amended or new energy conservation standards) in the compliance year.

Issue 25: DOE seeks data and input on the appropriate efficiency distribution in the no-new standards case for each air circulating fan category. DOE seeks data that would support changes in efficiency distributions over time in the no-new standards case. To the extent any of the efficiency distributions in the no-new standards case differ by size or other user design characteristic within an air circulating fan category, DOE requests information to characterize these variations.

H. Shipments

DOE develops shipments forecasts to calculate the national impacts of potential energy conservation standards on energy consumption, net present value (''NPV''), and future manufacturer cash flows. DOE shipments projections are typically based on available historical data broken out by equipment class, capacity, and efficiency. Current sales estimates allow for a more accurate model that captures recent trends in the market.

As part of a potential energy conservation standards rulemaking, DOE will review available historical and current shipments data to estimate current and future shipments of air circulating fans by category (*i.e.,* air circulating fan heads, personnel coolers, box fans, and table fans).

Issue 26: DOE requests 2021 annual sales data (or the most recent year available)—*i.e.,* number of shipments—for air circulating fans. If disaggregated data of annual sales are not available for different air circulating fan categories, DOE requests more aggregated data of annual sales as available.

Issue 27: DOE requests 2021 data (or the most recent year available) on the fraction of shipments in the industrial, commercial, and residential sectors for air circulating fans. In each sector, DOE requests 2021 data (or the most recent year available) on the fraction of shipments that represent replacement versus new installations.

Issue 28: DOE requests information on the rate at which annual sales (*i.e.,* number of shipments) of air circulating fans is expected to change in the next 5–10 years. If possible, DOE requests this information for each air circulating fan category. If disaggregated data of annual sales are not available for each air circulating fan category, DOE requests more aggregated data of annual sales.

Issue 29: DOE requests data and information on any trends in the fans market that could be used to forecast expected trends in market share by efficiency levels for air circulating fans. If disaggregated data are not available for each air circulating fan category, DOE requests more aggregated data.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified under the **DATES** heading, comments and information on matters addressed in this RFI and on other matters relevant to DOE's consideration of energy conservation standards for fans and blowers. These comments and information will aid in the development of an energy conservation standards notice of proposed rulemaking for fans and blowers, including air circulating fans, if DOE determines that new energy conservation standards may be appropriate for this equipment.

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, are written in English and 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. 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, postal mail, or hand delivery/courier 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 February 2, 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 February 3, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–02576 Filed 2–7–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0090; Project Identifier MCAI–2021–00399–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This proposed AD was prompted by a report of smoke in the aft cabin during a maintenance activity, which an investigation determined was caused by a faulty drain line ribbon heater. This proposed AD would require a general visual inspection of all affected potable water-line ribbon heater installations and corrective actions and other specified actions. 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 25, 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 Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0090; 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: Thomas Niczky, Aerospace Engineer,

Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0090; Project Identifier MCAI–2021–00399–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–13, dated April 1, 2021 (TCCA AD CF–2021–13) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes, equipped with any Cox & Co. 3043 or 3044 series (potable water-line) ribbon heater. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0090.

This proposed AD was prompted by a report of smoke in the aft cabin during a maintenance activity, which an investigation determined was caused by a faulty drain line ribbon heater. The ribbon heater lead wires were found to have been installed with the lead wire termination reversed, which, in combination with a ribbon heater ground fault, led to a continuous ribbon heater heating condition. The FAA is proposing this AD to address faulty potable water-line ribbon heaters, which, if not corrected, could lead to an onboard fire. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 601–0644, Revision 1, dated January 29, 2019, and Service Bulletin 604–30–007, Revision 1, dated January 29, 2019. This service information describes procedures for a general visual inspection of all affected potable water-line ribbon heater installations for any discrepancy and applicable corrective actions and other specified actions. Discrepancies include discoloration, blistering or cracking of insulation, signs of wear, or heat damage. Corrective actions include replacement of discrepant insulation and ribbon heaters. Other specified actions include identifying the potable water-line ribbon heater pigtail wire configuration, installing a fuse to the ribbon heater power lead, and testing the potable water-line heater system of each ribbon heater. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements in This NPRM

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

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 585 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 30 work-hours × $85 per hour = Up to $2,550	$268	Up to $2,818	Up to $1,648,530.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 30 work-hours × $85 per hour = $2,550	Up to $39,552 *	$42,102

* The parts cost for a single potable water-line ribbon heater and associated material is $4,944. The estimated cost above assumes the worst case scenario of replacing all eight ribbon heaters on an airplane configured with eight ribbon heaters.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2022–0090; Project Identifier MCAI–2021–00399–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 25, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., airplanes certificated in any category, identified in paragraphs (c)(1) through (3) of this AD and equipped with any Cox & Co. 3043 or 3044 series (potable water-line) ribbon heater.

(1) Model CL–600–1A11 (600) airplanes.

(2) Model CL–600–2A12 (601) airplanes.

(3) Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 3070, Ice and Rain Protection; Code 3810, Potable Water System.

(e) Unsafe Condition

This AD was prompted by a report of smoke in the aft cabin during a maintenance activity, which an investigation determined was caused by a faulty drain line ribbon heater. The FAA is issuing this AD to address faulty potable water-line ribbon heaters, which, if not corrected, could lead to an onboard fire.

(f) Compliance

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

(g) Inspection of Potable Water-Line Ribbon Heater Installation and Insulation, Applicable Corrective Actions, and Other Specified Actions

For airplanes with a serial number listed in Section 1.A of the applicable service information specified in figure 1 to paragraph (g) of this AD: Within 6 years after the effective date of this AD, do an inspection of the potable water-line ribbon heater installation and insulation to detect any discrepancy, and, before further flight, do all applicable corrective actions and other specified actions in accordance with the Accomplishment Instructions of the service information specified in figure 1 to paragraph (g) of this AD, as applicable.

Figure 1 to paragraph (g) – *Service Information References*

Airplane Model	Service Information
Model CL-600-2A12	Bombardier Service Bulletin 601-0644, Revision 1, dated January 29, 2019
Model CL-600-2B16	Bombardier Service Bulletin 601-0644, Revision 1, dated January 29, 2019, or Bombardier Service Bulletin 604-30-007, Revision 1, dated January 29, 2019

(h) Required Actions for Airplanes Not Listed in the Service Information

For airplanes with a serial number that is not listed in section 1.A of the service information specified in figure 1 to paragraph (g) of this AD, and for Bombardier Model CL–600–1A11 airplanes: Within 6 years after the effective date of this AD, do applicable actions including inspection for discrepancies of the potable water-line ribbon heater and repair of any discrepant potable water-line ribbon heaters using a method approved in accordance with the procedures specified in paragraph (i)(2) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2021–13, dated April 1, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0090.

(2) For more information about this AD, contact Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on February 2, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–02513 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1076; Project Identifier MCAI–2020–01201–A]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Viking Air Limited (Viking) (type certificate previously held by Bombardier Inc. and de Havilland, Inc.) Model DHC–3 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as corrosion, wear, and fatigue-related degradation in aging aircraft. This proposed AD would require establishing a corrosion prevention and control program to identify and correct corrosion and cracking. This proposed AD would also require completing all of the initial tasks identified in the program and reporting corrosion findings to Viking. 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 25, 2022.

ADDRESSES: You may send comments 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; phone: (North America) (800) 663–8444; fax: (250) 656–0673; email: *technical.support@vikingair.com;* website: *https://www.vikingair.com/support/service-bulletins.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (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–2020–1076; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Deep Gaurav, Aviation Safety Engineer, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7300; email: *deep.gaurav@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2020–1076; Project Identifier MCAI–2020–01201–A'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Deep Gaurav, Aviation Safety Engineer, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued AD CF–2018–04, dated January 19, 2018 (referred to after this as ''the MCAI''), to correct an unsafe condition on all serial-numbered Viking (formerly Bombardier Inc. and de Havilland Inc.) Model DHC–3 airplanes. The MCAI states:

> Service experience indicates that aging aircraft are more likely to be adversely affected by corrosion, wear and fatigue cracking. Viking Air Limited (Viking), as Type Certificate holder for the DHC–3, has developed a supplementary inspection and corrosion control program which identifies specific areas that must be inspected to ensure that corrosion, wear and fatigue-related degradation do not result in an unsafe condition. The program is documented in Viking Product Support Manual (PSM) 1–3–5 DHC–3 Otter Supplementary Inspection and Corrosion Control Manual (SICCM).
>
> Corrosion levels are defined in PSM 1–3–5 as a means for assessing the effectiveness of the corrosion control program and recording the results of the inspections mandated by this [Transport Canada] AD.
>
> Each item specified for inspection in PSM 1–3–5 has been substantiated to Transport Canada as having experienced significant degradation in service and, as having the potential to develop into an unsafe condition if the inspections defined in the PSM are not implemented.

Corrosion and cracking, if not addressed, could lead to structural failure with consequent loss of control of the airplane. You may examine the MCAI at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1076.

Related Service Information

The FAA reviewed Viking DHC–3 Otter Service Bulletin V3/0010, Revision NC, dated March 19, 2020. The service bulletin provides a list of new inspection tasks that have been added to the DHC–3 maintenance program as a supplemental corrosion prevention manual, Viking Product Support Manual (PSM) 1–3–5 DHC–3 Otter Supplemental Inspection and Corrosion Control Manual, Revision IR, dated December 21, 2017 (Viking PSM 1–3–5, Revision IR).

The FAA also reviewed Viking PSM 1–3–5, Revision IR, which specifies procedures for inspecting areas of the airplane that are particularly susceptible to corrosion, wear, and fatigue-related degradation. Viking PSM 1–3–5, Revision IR, also specifies repetitive inspection intervals, defines the different levels of corrosion, and provides corrective action if corrosion is found.

FAA's Determination

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

Requirements of the Proposed AD

This proposed AD would require establishing a corrosion prevention and control program approved by the FAA, including initial inspection tasks to identify corrosion and cracking, repetitive inspection intervals, and corrective actions (such as repairs and application of corrosion inhibitors) if corrosion or cracking is found. The proposed AD would also require, before further flight after establishing the program, completing all of the initial tasks identified in the program. Lastly, this proposed AD would require reporting corrosion findings to Viking.

ADs Mandating Airworthiness Limitations

The FAA has previously mandated airworthiness limitations by issuing ADs that require revising the airworthiness limitation section (ALS) of the existing maintenance manual or instructions for continued airworthiness to incorporate new or revised inspections. This proposed AD, however, would require establishing and incorporating new inspections into the maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2) for your airplane. The FAA does not intend this as a substantive change. Requiring incorporation of the new ALS requirements into the maintenance records, rather than requiring individual repetitive inspections and replacements, allows operators to record AD compliance once after updating the maintenance records, rather than recording compliance after every inspection and part replacement.

Differences Between This Proposed AD and the MCAI

Transport Canada AD CF–2018–04 requires completing the actions as specified in Viking PSM 1–3–5, Revision IR. This proposed AD would not require Viking PSM 1–3–5, Revision IR, but would require establishing a corrosion prevention and control program using an FAA-approved method. However, the FAA considers Viking PSM 1–3–5, Revision IR, an approved method.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 38 airplanes of U.S. registry. The FAA also estimates that it would take about 145 work-hours per airplane to establish a corrosion prevention and control program and comply with the initial tasks of the program.

Based on these figures, the FAA estimates the cost of the proposed AD on U.S. operators to be $468,350 or $12,325 per airplane.

The FAA estimates it would take about 1work-hour to report any corrosion found during the proposed initial inspections, for an estimated cost of $85 per airplane.

The extent of damage found during the proposed initial inspections may vary significantly from airplane to airplane. The FAA has no way to determine the estimated cost of repair or replacement of damaged parts for each airplane or how many airplanes may need these repairs.

Paperwork Reduction Act

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

information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.): Docket No. FAA–2020–1076; Project Identifier MCAI–2020–01201–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 25, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland, Inc.) Model DHC–3 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2700, Flight Control System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as corrosion, wear, and fatigue-related degradation in aging aircraft. The FAA is issuing this AD to detect and address corrosion and cracking. This condition, if not addressed, could lead to structural failure with consequent loss of control of the airplane.

(f) Compliance

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

(g) Inspection and Corrosion Control Program

Within 18 months after the effective date of this AD, establish in the maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your aircraft, a corrosion prevention and control program approved by the FAA that includes initial inspections to identify corrosion and cracking, repetitive inspection intervals, and corrective actions (repairs and application of corrosion inhibitors) if corrosion or cracking is found. Before further flight after establishing the corrosion prevention and control program, complete all of the initial tasks identified in the program. To obtain FAA approval, you must contact the New York ACO Branch using the contact information found in paragraph (j)(3) of this AD.

Note 1 to paragraph (g): Viking Product Support Manual (PSM) 1–3–5 DHC–3 Otter Supplemental Inspection and Corrosion Control Manual, Revision IR, dated December 21, 2017 (Viking PSM 1–3–5, Revision IR), contains additional information related to this AD and is an FAA-approved method for establishing a corrosion prevention and control program.

Note 2 to paragraph (g): Viking DHC–3 Otter Service Bulletin V3/0010, Revision NC, dated March 19, 2020 (Viking SB V3/0010, Revision NC), also contains additional information related to this AD.

(h) Reporting

If, during any task required by paragraph (g) of this AD, any corrosion is found: Within 30 days after completing the task or within 30 days after the effective date of this AD, whichever occurs later, report the corrosion to Viking at *technical.support@vikingair.com* or at the address listed in paragraph (j)(4) of this AD. The report must include the following:

(1) Operator;

(2) Airplane serial number;

(3) Airplane hours time-in-service at time of inspection;

(4) Inspection task number and date of inspection;

(5) Airplane operating environment; and

(6) Type, level or extent, location, and cause (if known) of damage.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or 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 (j)(3) of this AD.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved specifically for this AD by the Manager, New York ACO Branch, FAA; or Transport Canada.

(j) Related Information

(1) Refer to the MCAI from Transport Canada, AD CF–2018–04, dated January 19,

2018, for related information. You may examine the MCAI at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1076.

(2) Viking SB V3/0010, Revision NC and Viking PSM 1–3–5, Revision IR, contain additional information related to this AD.

(3) For more information about this AD, contact Deep Gaurav, Aviation Safety Engineer, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7300; email: *deep.gaurav@faa.gov.*

(4) For service information related to this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; telephone: (North America) (800) 663–8444; fax: (250) 656–0673; email: *technical.support@vikingair.com;* website: *https://www.vikingair.com/support/service-bulletins.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on February 1, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02547 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0091; Project Identifier MCAI–2021–01123–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by reports that during inspections accomplished in accordance with certain airworthiness limitation items (ALIs), cracks were detected in double joggle areas at frame (FR) 16 and FR20, right hand and left hand sides. This proposed AD would require repetitive special detailed inspections of certain areas and applicable on-condition actions, as specified in a European Union Aviation Safety Agency (EASA) AD. 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 25, 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 EASA material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.*

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0091; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@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–2022–0091; Project Identifier MCAI–2021–01123–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0227, dated October 11, 2021 (EASA AD 2021–0227) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

This proposed AD was prompted by reports that during inspections accomplished in accordance with ALI tasks 531153 and 531155, cracks were detected in the double joggle areas at FR16 and FR20, right hand and left hand sides. The FAA is proposing this

AD to address cracks in these areas, which, if not detected and corrected, could reduce the structural integrity of the fuselage. See the MCAI for additional background information.

Other Relevant Rulemaking

AD 2020–20–05, Amendment 39–21261 (85 FR 65197, October 15, 2020) (AD 2020–20–05) applies to Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, and –153N airplanes; Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. AD 2020–20–05 requires incorporating new or more restrictive airworthiness limitations. Accomplishment of the proposed actions would terminate ALI Tasks 531153–02–1, 531153–02–2, 531155–02–1 and 531155–02–2, as required by paragraph (i) of AD 2020–20–05 for Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes only.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0227 specifies procedures for repetitive special detailed inspections (rototest inspections) of double joggle areas at FR16 and FR20, right hand and left hand sides for cracking, applicable on-condition actions (repair) and an optional modification of the double joggle area, which terminates the repetitive inspections. The modification includes a rotating probe inspection of certain fastener holes for cracks, a check of the fastener holes for a minimum diameter, and applicable on-condition actions (repair and oversizing holes). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0227 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021–0227 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0227 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0227 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0227. Service information required by EASA AD 2021–0227 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0091 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD would affect 1,549 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 55 work-hours × $85 per hour = $4,675	$0	Up to $4,675	Up to $7,241,575.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
60 work-hours × $85 per hour = $5,100	$1,624	$6,724

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2022–0091; Project Identifier MCAI–2021–01123–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 25, 2022.

(b) Affected ADs

This AD affects AD 2020–20–05, Amendment 39–21261 (85 FR 65197, October 15, 2020) (AD 2020–20–05).

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0227, dated October 11, 2021 (EASA AD 2021–0227).

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

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

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports that, during inspections accomplished as specified in certain airworthiness limitation items (ALIs), cracks were detected in the double joggle areas at frame (FR) 16 and FR20 in the nose forward fuselage. The FAA is issuing this AD to address cracks in these areas, which, if not detected and corrected, could reduce the structural integrity of the fuselage.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0227.

(h) Exceptions to EASA AD 2021–0227

(1) Where EASA AD 2021–0227 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0227 does not apply to this AD.

(3) Where paragraph (2) of EASA AD 2021–0227 specifies to ''contact Airbus for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly'' if any cracks are detected, for this AD if any cracking is detected, the cracking must be repaired before further flight using a method approved by Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(4) Where paragraphs (3) and (4) of EASA AD 2021–0227 specify ''Airbus approved repair instructions,'' or ''post-repair inspection instructions approved by Airbus,'' for this AD, to be acceptable for credit, the repair instructions must be approved by Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0227 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Terminating Action for Certain Requirements in AD 2020–20–05

Accomplishing the initial inspections required by this AD terminates ALI Tasks 531153–02–1, 531153–02–2, 531155–02–1 and 531155–02–2, as required by paragraph (i) of AD 2020–20–05 only for the airplanes identified in paragraph (c) of this AD.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

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

(l) Related Information

(1) For EASA AD 2021–0227, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0091.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

Issued on February 2, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–02520 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–7071; Project Identifier 2019–CE–048–AD]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 64–09–03, which applies to all de Havilland (type certificate now held by Viking Air Limited) Model DHC–2 ''Beaver'' airplanes. AD 64–09–03 requires inspecting the aileron mass balance weight arms for cracks and corrosion and replacing any damaged part. Since the FAA issued AD 64–09–03, Transport Canada superseded its mandatory continuing airworthiness information (MCAI) to correct an unsafe condition on these products. This proposed AD would require establishing a corrosion prevention and control program to identify and correct corrosion. This proposed AD would also require completing all of the initial tasks identified in the program and reporting corrosion findings to Viking. The proposed corrosion prevention and control program would include the inspection of the aileron balance weight arms required by AD 64–09–03. 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 25, 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 Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; phone: (North America) (800) 663–8444; fax: (250) 656–0673; email: *technical.support@vikingair.com;* website: *https://www.vikingair.com/support/service-bulletins.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (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–2020–7071; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aviation Safety Engineer, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; phone: (516) 287–7329; email: *aziz.ahmed@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2020–7071; Project Identifier 2019–CE–048–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Aziz Ahmed, Aerospace Engineer, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590. 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 64–09–03, Amendment 718 (29 FR 5390; April 22, 1964) (AD 64–09–03) for all de Havilland (type certificate now held by Viking Air Limited) Model DHC–2 ''Beaver'' airplanes. AD 64–09–03 requires repetitively inspecting the aileron mass balance weight arms for cracks and corrosion and replacing any damaged part. AD 64–09–03 resulted from cracks and corrosion found on aileron mass balance weight arm part numbers (P/Ns) C2WA151, C2WA152, C2WA127, and C2WA128.

Actions Since AD 64–09–03 Was Issued

Since the FAA issued AD 64–09–03, the type certificate holder for Model DHC–2 airplanes changed from de Havilland to Viking Air Limited. Transport Canada, which is the aviation authority for Canada, superseded its prior ADs on this unsafe condition and issued AD CF–2019–25, dated July 5, 2019 (referred to after this as ''the MCAI''), to correct an unsafe condition for all serial-numbered Viking Air Limited Model DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. The MCAI states:

> Service experience indicates that aging aircraft are more likely to be affected by corrosion. Viking Air Limited (Viking), as Type Certificate holder for DHC–2, has developed a supplementary inspection and corrosion control program which identifies specific area that must be inspected to ensure the corrosion-related degradation does not

result in an unsafe condition. The program is documented in Viking Product Support Manual (PSM) 1–2–5 DHC–2 Beaver Supplementary Inspection and Corrosion Control Manual (SICCM).

Corrosion levels are defined in PSM 1–2–5 as a means for assessing the effectiveness of the corrosion control program and recording the results of the inspections mandated by this [Transport Canada] AD.

The initial issue of PSM 1–2–5, Revision IR, was mandated by [Transport Canada] AD CF–2017–33. This initial issue of PSM 1–2–5 focused on the fight control systems. Viking has revised PS 1–2–5 to Revision 1. This revision includes additional inspection tasks for components of airframe systems other than flight controls. This [Transport Canada] AD is issued to require accomplishment of those additional inspection tasks and supersedes [Transport Canada] AD CF–2017–33.

This [Transport Canada] AD continues to require accomplishment of the tasks that were included in the initial issue of PSM 1–2–5. Note: The tasks being carried over from Revision IR to Revision 1 are required to be performed in accordance with the current revision of the PSM 1–2–5, reference [Canadian Aviation Regulation] CAR 571.02 paragraph (1) (a).

Transport Canada (TC) has concluded that Tasks C57–51–01 and C57–51–02 make the repetitive inspections required by [Transport Canada] AD CF–61–12 [which corresponds to FAA AD 64–09–03] unnecessary. CF–61–12 is therefore cancelled.

Viking determined that changes to the compliance times for two of the tasks in PSM 1–2–5 were required. For task C57–51–01 the repeat interval was every 1 year in Revision IR and is changed to every 2 years in Revision 1. For task C57–51–02 the repeat interval was every 4 years in Revision IR and is changed to every 4 years or 500 hours air time, whichever occurs first, in Revision 1.

Corrosion-related degradation, if not addressed, could lead to structural failure with consequent loss of control of the airplane. You may examine the MCAI at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–7071.

Related Service Information

The FAA reviewed Viking DHC–2 Beaver Service Bulletin V2/0011, Revision NC, dated November 28, 2019. This service information provides a list of new inspection tasks that have been added to the DHC–2 supplementary inspection and corrosion control program, Viking Product Support Manual (PSM) 1–2–5 DHC–2 Beaver Supplemental Inspection and Corrosion Control Manual, Revision 1, dated January 10, 2019 (Viking PSM–1–2–5, Revision 1).

The FAA also reviewed Viking PSM–1–2–5, Revision 1, which specifies procedures for inspecting areas of the airplane that are particularly susceptible to corrosion-related degradation. Viking PSM 1–2–5, Revision 1 also specifies repetitive inspection intervals, defines the different levels of corrosion, and provides corrective action if corrosion is found.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain none of the requirements of AD 64–09–03. This proposed AD would require establishing a corrosion prevention and control program approved by the FAA, including initial inspection tasks to identify corrosion and cracking, repetitive inspection intervals, and corrective actions (such as repairs and application of corrosion inhibitors) if corrosion or cracking is found. This proposed AD would also require, before further flight after establishing the program, completing all of the initial tasks identified in the program. Lastly, this proposed AD would require reporting corrosion findings to Viking. Because the program would include the inspection of the aileron balance weight arms required by AD 64–09–03, this proposed AD would supersede AD 64–09–03.

ADs Mandating Airworthiness Limitations

The FAA has previously mandated airworthiness limitations by issuing ADs that require revising the airworthiness limitation section (ALS) of the existing maintenance manual or instructions for continued airworthiness to incorporate new or revised inspections. This proposed AD, however, would require establishing and incorporating new inspections into the maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2) for your airplane. The FAA does not intend this as a substantive change. Requiring incorporation of the new ALS requirements into the maintenance records, rather than requiring individual repetitive inspections and replacements, allows operators to record AD compliance once after updating the maintenance records, rather than recording compliance after every inspection and part replacement.

Differences Between This Proposed AD and the MCAI

The MCAI requires completing the actions as specified in Viking PSM–1–2–5. Revision 1. This proposed AD would not require Viking PSM–1–2–5, Revision 1, but would require establishing a corrosion prevention and control program using an FAA-approved method. However, the FAA considers Viking PSM 1–2–5, Revision 1 an approved method.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 135 airplanes of U.S. registry. The FAA also estimates that it would take about 342 work-hours per airplane to establish a corrosion prevention and control program and comply with the initial inspection tasks of the program.

Based on these figures, the FAA estimates the cost of this proposed AD on U.S. operators to be $3,924,450 or $29,070 per airplane.

The FAA estimates it would take about 1-work hour to report any corrosion found during the proposed initial inspections, for an estimated cost of $85 per airplane.

The extent of damage found during the proposed initial inspections may vary significantly from airplane to airplane. The FAA has no way to determine the estimated cost of repair or replacement of damaged parts for each airplane or how many airplanes may need these repairs or replacements.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to:

Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify 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 64–09–03, Amendment 718 (29 FR 5390; April 22, 1964); and

■ b. Adding the following new airworthiness directive:

Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.): Docket No. FAA–2020–7071; Project Identifier 2019–CE–048–AD.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 25, 2022.

(b) Affected ADs

This AD replaces AD 64–09–03, Amendment 718 (29 FR 5390; April 22, 1964).

(c) Applicability

This AD applies to Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland, Inc.) Model DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2000, Airframe

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as corrosion-related degradation in aging aircraft. The FAA is issuing this AD to detect and address corrosion, which could lead to structural failure with consequent loss of control of the airplane.

(f) Compliance

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

(g) Inspection Tasks

Within 8 months after the effective date of this AD, establish in the maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your aircraft, a corrosion prevention and control program approved by the FAA that includes initial inspections to identify corrosion and cracking, repetitive inspection intervals, and corrective actions (repairs and application of corrosion inhibitors) if corrosion or cracking is found. Before further flight after establishing the corrosion prevention and control program, complete all of the initial tasks identified in the program. To obtain FAA approval, you must contact the New York ACO Branch using the contact information found in paragraph (j)(3) of this AD.

Note 1 to paragraph (g): Viking Product Support Manual PSM 1–2–5 DHC–2 Beaver Supplemental Inspection and Corrosion Control Manual, Revision 1, dated January 10, 2019 (Viking PSM 1–2–5, Revision 1), contains additional information related to this AD and is an FAA-approved method for establishing a corrosion prevention and control program.

Note 2 to paragraph (g): Viking DHC–2 Beaver Service Bulletin V2/0011, Revision NC, dated November 28, 2019 (Viking SB V2/0011, Revision NC), also contains additional information related to this AD.

(h) Reporting

If, during any task required by paragraph (g) of this AD, any corrosion is found: within 30 days after completing the task or within 30 days after the effective date of this AD, whichever occurs later, report the corrosion to Viking at *technical.support@vikingair.com* or at the address listed in paragraph (j)(4) of this AD. The report must include the following:

(1) Operator;

(2) Airplane serial number;

(3) Airplane hours time-in-service at time of inspection;

(4) Inspection task number and date of inspection;

(5) Airplane operating environment; and

(6) Type, level or extent, location, and cause (if known) of damage.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or 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 (j)(3) of this AD.

(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) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved specifically for this AD by the Manager, New York ACO Branch, FAA.

(j) Related Information

(1) Refer to the MCAI from Transport Canada, AD CF–2019–25, dated July 5, 2019, for related information. You may examine the MCAI at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–7071.

(2) Viking SB V2/0011, Revision NC and Viking PSM 1–2–5, Revision 1 contain additional information related to this AD.

(3) For information about this AD, contact Aziz Ahmed, Aerospace Engineer, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; phone: (516) 287–7329; email: *aziz.ahmed@faa.gov.*

(4) For service information identified in this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way,

Sidney, British Columbia, Canada, V8L 5V5; phone: (North America) (800) 663–8444; fax: (250) 656–0673; email: *technical.support@vikingair.com;* website: *https://www.vikingair.com/support/service-bulletins.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on February 2, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–02548 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 183

National Policy Regarding Organization Designation Authorization (ODA) Holder Interference With Unit Members (UMs) and Communication Between UMs and the Federal Aviation Administration (FAA)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of availability; request for comments.

SUMMARY: This document would supplement FAA Order 8100.15B, *Organization Designation Authorization (ODA) Procedures,* for FAA personnel and those seeking or wishing to maintain ODA holder privileges.

DATES: Comments must be received on or before March 10, 2022.

ADDRESSES: Send comments with the subject line, ''National Policy Regarding Organization Designation Authorization (ODA) Holder Interference with ODA Unit Members (UMs) and Communication between UMs and the Federal Aviation Administration'' on all submitted correspondence using the following method: Email comments to: *Emily.CTR.Rogers@faa.gov.*

Privacy: In addition to the final Notice, the FAA will post all comments it receives, without change, to *http://drs.faa.gov,* including any personal information the commenter provides. DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Trey McClure, Flight Standards Service, AFS–600, by email at *Trey.McClure@faa.gov,* or Mr. Scott Geddie, Aircraft Certification Service, AIR–600, by email at *Scott.Geddie@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Section 107 of the Aircraft Certification, Safety, and Accountability Act of 2020 (the Act) addresses, in part, preventing interference with Unit Members (UMs) of companies that hold Organization Designation Authorization (ODA), and allowing communication between ODA UMs and the FAA. The FAA seeks comments on a draft statement that responds to Section 107 requirements by providing procedures for ODA holder investigation and prevention of interference, for FAA oversight of ODAs, and for communication between ODA UMs and the FAA. The Notice supplements FAA Order 8100.15B, *Organization Designation Authorization (ODA) Procedures* (available at *http://drs.faa.gov*) and may be examined at *https://www.faa.gov/aircraft/draft_docs/.*

Comments Invited

The FAA invites interested stakeholders to submit comments on the proposed statement, as specified in the **ADDRESSES** section of this Notice. Commenters should include the subject line, ''Organization Designation Authorization (ODA) Holder Interference with ODA Unit Members (UMs) and Communication between UMs and the Federal Aviation Administration (FAA)'' on all comments submitted to the FAA. The most helpful comments reference a specific recommendation, explain the reason for any recommended change, and include supporting information. The FAA will consider all comments received on or before the closing date before issuing the final Notice. The FAA will also consider late filed comments if it is possible to do so without incurring expense or delay.

Issued in Washington, DC, on February 4, 2022.

Brandon Roberts,

Executive Director, Office of Rulemaking.

[FR Doc. 2022–02744 Filed 2–7–22; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Chapter X

RIN 1506–AB54

Anti-Money Laundering Regulations for Real Estate Transactions

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

ACTION: Advance notice of proposed rulemaking, extension of comment period.

SUMMARY: On December 8, 2021, FinCEN issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public comment on potential requirements under the Bank Secrecy Act (BSA) for certain persons involved in real estate transactions to collect, report, and retain information. FinCEN is extending the comment period of the ANPRM until February 21, 2022.

DATES: The comment period for the ANPRM published on December 8, 2021, at 86 FR 69589, is extended. Written comments are now due on or before February 21, 2022.

ADDRESSES: Comments may be submitted, identified by Regulatory Identification Number (RIN) 1506–AB54, by any of the following methods:

Federal E-rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Include 1506–AB54 in the submission. Refer to Docket Number FINCEN–2021–0007.

Mail: Financial Crimes Enforcement Network, Global Investigations Division, P.O. Box 39, Vienna, VA 22183. Include 1506–AB54 in the body of the text. Refer to Docket Number FINCEN–2021–0007.

Please submit comments by one method only.

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

SUPPLEMENTARY INFORMATION: On December 8, 2021, FinCEN published an ANPRM to assist in the consideration and preparation of a proposed rule to address money laundering vulnerabilities in the real estate sector. The ANPRM provided that comments on the ANPRM must be submitted by February 7, 2022. FinCEN appreciates and values the comments received so far. To allow for additional time to comment on the issues and questions raised in the ANPRM, FinCEN is extending the comment period for 14

days. Thus, written comments are now due on or before February 21, 2022.

Himamauli Das,

Acting Director, Financial Crimes Enforcement Network.

[FR Doc. 2022–02593 Filed 2–7–22; 8:45 am]

BILLING CODE 4810–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0107; FRL–9426–01–R9]

Air Plan Approval; Arizona; Maricopa County; Power Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Maricopa County Air Quality Department's (MCAQD or County) portion of the Arizona State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_X) and particulate matter (PM) from power plants. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action. Elsewhere in this **Federal Register**, we are making an interim final determination to defer CAA sanctions associated with our previous disapproval action concerning the County's revision of this local rule.

DATES: must be received on or before March 10, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0107 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3073 or by email at *gong.kevin@epa.gov.*

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

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I. The State's Submittal

A. What rule did the State submit?

The Arizona Department of Environmental Quality (ADEQ) submitted MCAQD Rule 322 ''Power Plant Operations'' as amended on June 23, 2021, and submitted to the EPA on June 24, 2021. On September 25, 2021, the EPA determined that the submittal for MCAQD Rule 322 met the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved a previous version of Rule 322 (locally revised on October 17, 2007) into the Arizona SIP on October 14, 2009 (74 FR 52693). The County adopted revisions to the SIP-approved version on November 2, 2016, and ADEQ submitted them to us on June 22, 2017. The EPA disapproved that revision in a final rule published on July 20, 2020 (85 FR 43692). If we take final action to approve the June 23, 2021 version of Rule 322, this version will replace the previously approved version of this rule in the SIP.

C. What is the purpose of Rule 322?

Emissions of NO_X contribute to the production of ground-level ozone, smog and PM, which harm human health and the environment. Emissions of PM, including PM equal to or less than 2.5 microns in diameter ($PM_{2.5}$) and PM equal to or less than 10 microns in diameter (PM_{10}), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control NO_X and PM emissions. Rule 322 regulates equipment at power plants that emit these and other pollutants. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each major source of NO_X in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and 182(f)). The MCAQD regulates a portion of the Phoenix-Mesa ozone nonattainment area which is classified as Moderate for the 2008 8-hour ozone national ambient air quality standard (40 CFR 81.303). Maricopa County's ''Analysis of Reasonably Available Control Technology For The 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP),'' adopted December 5, 2016, submitted June 22, 2017 (the ''2016 RACT SIP''), found that there were major sources of NO_X within the Maricopa County portion of the Phoenix-Mesa ozone nonattainment area subject to Rule 322. Accordingly, this rule must establish RACT levels of control for applicable major sources of NO_X.

The EPA's previous rulemaking on the 2017 version of Rule 322 found several deficiencies that did not allow for approval of that revision into the Arizona SIP. These deficiencies

(described further in our 2019 TSD for that rule) include the following:

a. Air Pollution Control Officer discretion to approve alternative control strategies as RACT without further approval from the EPA.

b. NO_X emission limits for steam generating units used for electricity generation that were less stringent than RACT.

c. Overly broad exemptions from certain requirements during emergency fuel use operations.

d. Air Pollution Control Officer discretion to extend compliance deadlines for applicable units.

e. Absence of a compliance determination requirement, such as a regular stack testing requirement.

As a result of these deficiencies, the EPA finalized disapproval of the 2017 revision to Rule 322, which initiated offset sanctions to commence 18 months after the effective date of that rulemaking (August 19, 2020), highway sanctions to commence 24 months after the effective date, and a requirement to promulgate a Federal Implementation Plan (FIP) to commence 24 months after the effective date, under CAA sections 110(k)(3) and 301(a). If MCAQD revises Rule 322 to resolve the identified deficiencies and EPA approves the revision into the Arizona SIP, these sanctions and FIP clocks will be stopped.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

3. ''Alternative Control Techniques Document—NO_X Emissions from Stationary Gas Turbines,'' EPA 453/R–93–007, January 1993.

4. ''Alternative Control Techniques Document—NO_X Emissions from Industrial, Commercial & Institutional Boilers,'' EPA 453/R–94–022, March 1994.

5. ''Alternative Control Techniques Document—NO_X Emissions from Stationary Reciprocating Internal Combustion Engines,'' EPA 453/R–93–032, July 1993.

6. ''De Minimis Values for NO_X RACT,'' Memorandum from G.T. Helms, Group Leader, Ozone Policy and Strategies Group, U.S. EPA, January 1, 1995.

7. ''Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT),'' Memorandum from D. Ken Berry, Acting Director, Air Quality Management Division, US. EPA, March 16, 1994.

B. Does Rule 322 meet the evaluation criteria?

We believe that this revision to Rule 322 meets CAA requirements, and addresses the deficiencies we identified in our 2020 rulemaking. The MCAQD corrected the first deficiency (discretion for alternative control strategies without EPA approval) by amending the provisions allowing for this deviation from the RACT requirements to include the EPA's approval of any such alternatives into the SIP. The County also clarified that the only equipment currently seeking to use an alternative control strategy were doing so under a low use requirement restricting annual operations to 10 percent of their annual capacity, expressed as fuel input limits. We have evaluated the analysis supporting this approach and agree that units operating under the low use threshold would not find RACT to be cost effective (see our TSD for further discussion). Therefore, we find that this revision resolves this deficiency.

The MCAQD corrected the second deficiency by including in the rule new NO_X emission limits of 30 parts per million by volume (ppmv) NO_X for gaseous fuel fired operations and 40 ppmv NO_X for liquid fuel fired operations at new units. Existing steam generating boilers must limit NO_X emissions to 0.1 pounds per million British thermal units per hour. We believe these emission limits to constitute RACT for this source category, and we find that these revisions resolve the deficiency.

The deficiency for emergency fuel operations (unbounded length, and ambiguity for testing operations) was corrected by the MCAQD through two revisions. The first is an annual limit of 168 hours for emergency fuel fired operations. The second is a clarification of the exemption for emergency fuel testing operations to be limited only to the period needed for testing. We find that these revisions resolve the deficiency for emergency fuel operations in Rule 322.

The fourth deficiency (unbounded discretion for extending compliance deadlines) was resolved by removing the discretion of the Control Officer to extend the increments of progress, and therefore the compliance schedule. Operators of applicable non-compliant equipment must now submit a permit revision to the MCAQD within 18 months of becoming subject to the rule, and be fully compliant within 36 months of issuance of the final permit. We find that this revision resolves the deficiency for compliance deadlines in Rule 322.

The fifth deficiency, lack of compliance determination requirements for NO_X emissions, was resolved by specifying that performance tests must be conducted annually. Units that are equipped with continuous emission monitoring systems are not required to conduct performance tests, but must maintain and and test the CEMS in accordance with the applicable EPA regulations in 40 CFR part 60 and 40 CFR part 75. We find that this revision resolves the deficiency for compliance determination requirements in Rule 322.

The revision is otherwise consistent with relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted Rule 322 because it fulfills all relevant requirements. We will accept comments from the public on this proposal until March 10, 2022. If we take final action to approve the submitted rule, our final action will incorporate this local rule into the federally enforceable SIP and stop the sanctions and FIP clocks that are associated with our previous disapproval of Rule 322.

III. Incorporation by Reference

In this proposed rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference MCAQD Rule 322, ''Power Plant Operations'' as amended on June 23, 2021. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by

state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: February 1, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–02462 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2022–0075; FRL–9428–01–R7]

Air Plan Approval; Kansas; 2015 Ozone NAAQS Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will significantly contribute to nonattainment or interfere with maintenance of air quality in other states. The State of Kansas made a submission to the Environmental Protection Agency (EPA or Agency) to address these requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). EPA is proposing to approve the submission for Kansas as meeting the requirement that the SIP contains adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

DATES: Written comments must be received on or before March 10, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2022–0075, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

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

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

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I. Background
II. Kansas's Submission
III. EPA Evaluation of Kansas's Submission
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I. Background

On October 1, 2015, EPA promulgated a revision to the ozone NAAQS (2015 ozone NAAQS), lowering the level of both the primary and secondary standards to 0.070 parts per million (ppm).[1] Section 110(a)(1) of the CAA requires states to submit, within 3 years after promulgation of a new or revised standard, SIP submissions meeting the applicable requirements of section 110(a)(2).[2] One of these applicable

[1] National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015). Although the level of the standard is specified in the units of ppm, ozone concentrations are also described in parts per billion (ppb). For example, 0.070 ppm is equivalent to 70 ppb.

[2] SIP revisions that are intended to meet the applicable requirements of section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs and the applicable elements under section 110(a)(2) are referred to as infrastructure requirements.

requirements is found in CAA section 110(a)(2)(D)(i)(I), otherwise known as the good neighbor or interstate transport provision, which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on other states due to interstate transport of pollution. There are four so-called ''prongs'' within CAA section 110(a)(2)(D)(i); section 110(a)(2)(D)(i)(I) contains prongs 1 and 2. Under prongs 1 and 2 of the good neighbor provision, a SIP for a new or revised NAAQS must contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting air pollutants in amounts that will significantly contribute to nonattainment of the NAAQS in another state (prong 1) or interfere with maintenance of the NAAQS in another state (prong 2). EPA and states must give independent significance to prong 1 and prong 2 when evaluating downwind air quality problems under CAA section 110(a)(2)(D)(i)(I).[3]

We note that EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to prior ozone NAAQS in several regional regulatory actions, including the Cross-State Air Pollution Rule (CSAPR), which addressed interstate transport with respect to the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter standards,[4] the Cross-State Air Pollution Rule Update (CSAPR Update) with respect to the 2008 ozone NAAQS, and, most recently, the Revised CSAPR Update for the 2008 ozone NAAQS.[5] [6]

Through the development and implementation of CSAPR and other regional rulemakings pursuant to the good neighbor provision,[7] EPA, working in partnership with states, developed the following four-step interstate transport framework to address the requirements of the good neighbor provision for the ozone NAAQS: (1) Identify downwind air quality problems; (2) identify upwind states that impact those downwind air quality problems sufficiently such that they are considered ''linked'' and therefore warrant further review and analysis; (3) identify the emissions reductions necessary (if any), considering air-quality and cost factors, to prevent linked upwind states identified in step 2 from contributing significantly to nonattainment or interfering with maintenance of the NAAQS at the locations of the downwind air quality problems; and (4) adopt permanent and enforceable measures needed to achieve those emissions reductions.

EPA has released several documents containing information relevant to evaluating interstate transport with respect to the 2015 ozone NAAQS. First, on January 6, 2017, EPA published a notice of data availability (NODA) with preliminary interstate ozone transport modeling with projected ozone design values (DVs) for 2023 using a 2011 base year modeling platform, on which we requested public comment.[8] In the NODA, EPA used the year 2023 as the analytic year for this preliminary modeling because that year aligns with the expected attainment year for Moderate ozone nonattainment areas for the 2015 ozone NAAQS.[9] On October 27, 2017, we released a memorandum (2017 memorandum) containing updated modeling data for 2023, which incorporated changes made in response to comments on the NODA, and noted that the modeling may be useful for states developing SIPs to address good neighbor obligations for the 2008 ozone NAAQS.[10] On March 27, 2018, we issued a memorandum (March 2018 memorandum) noting that the same 2023 modeling data released in the 2017 memorandum could also be useful for identifying potential downwind air quality problems with respect to the 2015 ozone NAAQS at step 1 of the four-step interstate transport framework.[11] The March 2018 memorandum also included the then newly available contribution modeling results to assist states in evaluating their impact on potential downwind air quality problems for the 2015 ozone NAAQS under step 2 of the interstate transport framework. EPA subsequently issued two more memoranda in August and October 2018, providing additional information to states developing good neighbor SIP submissions for the 2015 ozone NAAQS concerning, respectively, potential contribution thresholds that may be appropriate to apply in step 2 of the framework, and considerations for identifying downwind areas that may have problems maintaining the standard at step 1 of the framework.[12]

On October 30, 2020, in the Notice of Proposed Rulemaking for the Revised CSAPR Update, EPA released and accepted public comment on updated 2023 modeling that used a 2016 emissions platform developed under the EPA/Multi-Jurisdictional Organization (MJO)/state collaborative project as the primary source for the base year and future year emissions data.[13] On March 15, 2021, EPA signed the final Revised CSAPR Update using the same modeling released at proposal.[14] Although Kansas relied on the modeling included in the March 2018 memorandum to develop their SIP submission as EPA had suggested, EPA now proposes to primarily rely on the updated and newly available 2016 base year modeling in evaluating this submission. By using the Revised CSAPR Update modeling results, EPA is using the most current and technically appropriate information as the primary basis for this

[3] *See North Carolina* v. *EPA,* 531 F.3d 896, 909–911 (2008).

[4] *See* 76 FR 48208 (August 8, 2011).

[5] In 2019, the D.C. Circuit Court of Appeals remanded the CSAPR Update to the extent it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a). *Wisconsin* v. *EPA,* 938 F.3d 303, 313 (D.C. Cir. 2019).

[6] The Revised Cross-State Air Pollution Rule Update for the 2008 ozone NAAQS (86 FR 23054 (April 30, 2021)) was signed by the EPA Administrator on March 15, 2021 and responded to the remand of the CSAPR Update (81 FR 74504 October 26, 2016)) and the vacatur of a separate rule, the CSAPR Close-Out (83 FR 65878 (December 21, 2018)) by the D.C. Circuit. *Wisconsin* v. *EPA,* 938 F.3d 303 (D.C. Cir. 2019); *New York* v. *EPA,* 781 F. App'x. 4 (D.C. Cir. 2019).

[7] In addition to the CSAPR rulemakings, other regional rulemakings addressing ozone transport include the NO_X SIP Call, 63 FR 57356 (October 27, 1998), and the Clean Air Interstate Rule (CAIR), 70 FR 25162 (May 12, 2005).

[8] *See* Notice of Availability of the Environmental Protection Agency's Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality Standard (NAAQS), 82 FR 1733 (January 6, 2017).

[9] 82 FR 1733, 1735 (January 6, 2017).

[10] *See* Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act section 110(a)(2)(D)(i)(I), October 27, 2017, available in the docket for this action as ''October 2017 Memorandum'' or at *https://www.epa.gov/interstate-air-pollution-transport/interstate-air-pollution-transport-memos-and-notices.*

[11] *See* Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), March 27, 2018, available in the docket for this action as ''March 2018 Memorandum.''

[12] *See* Analysis of Contribution Thresholds for Use in Clean Air Act section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards, August 31, 2018) (''August 2018 memorandum''), and Considerations for Identifying Maintenance Receptors for Use in Clean Air Act section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards, October 19, 2018, available in the docket for this section as ''Maintenance Receptors Memo_Oct2018'' or at *http://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs.*

[13] *See* 85 FR 68964, 68981. The underlying modeling files are available for public review in the docket for the Revised CSAPR Update (EPA–HQ–OAR–2020–0272).

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

proposed rulemaking.[15] EPA's independent analysis evaluated the Revised CSAPR Update modeling data and historical and projected emissions trends for Kansas. Section III of this document and the Air Quality Modeling technical support document (TSD) included in the docket for this proposal contain additional detail on the Revised CSAPR Update modeling.[16]

In the CSAPR, CSAPR Update, and the Revised CSAPR Update, EPA used a threshold of one percent of the NAAQS to determine whether a given upwind state was ''linked'' at step 2 of the interstate transport framework and would, therefore, contribute to downwind nonattainment and maintenance sites identified in step 1. If a state's impact did not equal or exceed the one percent threshold, the upwind state was not ''linked'' to a downwind air quality problem, and EPA, therefore, concluded the state would not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in the downwind states. However, if a state's impact equaled or exceeded the one percent threshold, the state's emissions were further evaluated in step 3, considering both air quality and cost considerations, to determine what, if any, emissions might be deemed ''significant'' and, thus, must be eliminated under the good neighbor provision. EPA is relying on the one percent threshold for the purpose of evaluating Kansas's contribution to nonattainment or maintenance of the 2015 ozone NAAQS in downwind areas.

Several D.C. Circuit court decisions address the issue of the relevant analytic year for the purposes of evaluating ozone transport air-quality problems. On September 13, 2019, the D.C. Circuit issued a decision in *Wisconsin* v. *EPA,* remanding the CSAPR Update to the extent that it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a).[17]

On May 19, 2020, the D.C. Circuit issued a decision in *Maryland* v. *EPA* that cited the *Wisconsin* decision in holding that EPA must assess the impact of interstate transport on air quality at the next downwind attainment date, including Marginal area attainment dates, in evaluating the basis for EPA's denial of a petition under CAA section 126(b).[18] The court noted that ''section 126(b) incorporates the Good Neighbor Provision,'' and, therefore, ''EPA must find a violation [of section 126] if an upwind source will significantly contribute to downwind nonattainment at the *next downwind attainment deadline.* Therefore, the agency must evaluate downwind air quality at that deadline, not at some later date.'' *Id.* at 1204 (emphasis added). EPA interprets the court's holding in *Maryland* as requiring the Agency, under the good neighbor provision, to assess downwind air quality by no later than the next applicable attainment date, including a Marginal area attainment date under CAA section 181 for ozone nonattainment.[19]

However, the Marginal area attainment date for the 2015 ozone NAAQS was August 3, 2021.[20] EPA does not believe it would be appropriate to focus its analysis on an attainment date that is wholly in the past because the Agency interprets the good neighbor provision as forward looking. *See* 86 FR 23054 at 23074; *see also Wisconsin,* 938 F.3d at 322. Consequently, as this action is being proposed after the 2021 attainment date (as well as after the end of the 2021 ozone season), EPA proposes to use 2023 as an appropriate analytic year in this action. The year 2023 contains the last full ozone season before the next downwind attainment date, which is the August 3, 2024, Moderate area attainment date. (Historically, EPA has considered the full ozone season prior to the attainment date as supplying an appropriate analytic year for assessing Kansas's good neighbor obligations.) EPA acknowledges that the first order directive for the timing of good neighbor compliance is ''as expeditiously as practicable.'' *See* CAA section 181(a)(1); 938 F.3d at 313. EPA believes that an assessment of future air quality in the 2023 analytic year is as expeditiously as practicable. Should any emission reductions be required under the four-step interstate transport framework (though, to be clear, none are found to be necessary for Kansas in this proposal), EPA believes 2023 is the earliest ozone season by which such reductions would be possible. Therefore, EPA has analyzed projected ozone air quality and Kansas's emissions for purposes of the good neighbor provision using the 2023 analytic year.

II. Kansas's Submission

On September 27, 2018, EPA received a SIP revision from the State of Kansas addressing the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 ozone NAAQS. Kansas relied on the results of EPA's modeling for the 2015 ozone NAAQS contained in the March 2018 memorandum to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in Kansas in the year 2023. These results indicated the State's greatest impact on any potential downwind nonattainment or maintenance receptor would be 0.77 ppb. Referencing the modeling results from the March 2018 memorandum, Kansas found this level of impact in Allegan, Michigan (monitoring site 260050003). Kansas compared this value to a screening threshold of 0.70 ppb, representing one percent of the 2015 ozone NAAQS. Because Kansas's impacts to receptors in downwind states were projected to be greater than 0.70 ppb in 2023 but less than 1 ppb, the State cited EPA's August 2018 memorandum to argue that an alternative threshold of 1ppb was more appropriate than the one percent threshold.[21] The State concluded that

[15] EPA recently made available updated modeling results on its website but was not able to incorporate those results into this proposal prior to signature. *See https://www.epa.gov/air-emissions-modeling/2016v2-platform.* In any case, these results corroborate the prior EPA modeling on which this proposal relies with respect to Kansas.

[16] *See* ''Air Quality Modeling Technical Support Document for the Final Revised Cross-State Air Pollution Rule Update,'' 86 FR 23054 (April 30, 2021), available in the docket for this action. This TSD was originally developed to support EPA's action in the Revised CSAPR Update, as relating to outstanding good neighbor obligations under the 2008 ozone NAAQS. While developed in this separate context, the data and modeling outputs, including interpolated design values for 2021, may be evaluated with respect to the 2015 ozone NAAQS and used in support of this proposal.

[17] 938 F.3d 303, 313.

[18] *Maryland* v. *EPA,* 958 F.3d 1185, 1203–04 (D.C. Cir. 2020).

[19] We note that the court in *Maryland* did not have occasion to evaluate circumstances in which EPA may determine that an upwind linkage to a downwind air quality problem exists at steps 1 and 2 of the interstate transport framework by a particular attainment date, but for reasons of impossibility or profound uncertainty the Agency is unable to mandate upwind pollution controls by that date. *See Wisconsin,* 938 F.3d at 320. The D.C. Circuit noted in *Wisconsin* that upon a sufficient showing, these circumstances may warrant flexibility in effectuating the purpose of the good neighbor provision. Such circumstances are not at issue in the present proposal.

[20] CAA section 181(a); 40 CFR 51.1303; Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018, effective Aug. 3, 2018).

[21] The EPA's August 2018 memorandum recognized that in certain circumstances, a state may be able to establish that an alternative contribution threshold of 1 ppb is justifiable. Typically, where a state relies on this alternative threshold, and where that state determined that it was not linked at step 2 using the alternative threshold, the EPA will evaluate whether the state provided a technically sound assessment of the appropriateness of using this alternative threshold

Continued

emissions from sources within Kansas will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

III. EPA Evaluation of Kansas's Submission

Kansas's SIP submission relies on analysis of EPA's modeling for 2023 released in the March 2018 memorandum to conclude that the State does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. As explained in section I of this proposal, EPA conducted updated modeling for the 2023 analytical year (using a 2016 base year platform) for the RCU and proposes to rely primarily on this updated modeling to evaluate Kansas's transport SIP submission. EPA's evaluation of the RCU modeling corroborates Kansas's conclusion that the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.[22] While EPA has focused its analysis in this document on the year 2023, modeling data in the record for a future analytic year, 2028, confirm that no new linkages to downwind receptors are projected in later years. This is consistent with an overall, long-term downward trend in emissions from the State.

In step 1 of the four-step interstate framework, we identify locations where the Agency expects there to be nonattainment or maintenance receptors for the 2015 8-hour ozone NAAQS in the 2023 analytic future year, using the 2016 base year modeling platform. Where EPA's analysis shows that an area or site does not fall under the definition of a nonattainment or maintenance receptor in 2023, that site is excluded from further analysis under EPA's four step interstate transport framework. For areas that are identified as a nonattainment or maintenance receptor in 2023, we proceed to the next step of our four-step framework by identifying the upwind state's contribution to those receptors.

EPA's approach to identifying ozone nonattainment and maintenance receptors in this proposal is consistent with the approach used in previous transport rulemakings and is consistent with the D.C. Circuit's direction in *North Carolina* to give independent consideration to both the ''contribute significantly to nonattainment'' and the ''interfere with maintenance'' prongs of CAA section 110(a)(2)(D)(i)(I).[23]

For the purpose of this proposal, EPA identifies nonattainment receptors as those monitoring sites that are projected to have average design values that exceed the NAAQS and that are also measuring nonattainment based on the most recent monitored design values. This approach is consistent with prior transport rulemakings, such as the CSAPR Update, where EPA defined nonattainment receptors as those areas that both currently monitor nonattainment and that EPA projects will be in nonattainment in the future analytic year.[24]

In addition, in this proposal, EPA identifies a receptor to be a ''maintenance'' receptor for purposes of defining interference with maintenance, consistent with the method used in the CSAPR and upheld by the D.C. Circuit in *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 136 (D.C. Cir. 2015).[25] Specifically, monitoring sites with a projected maximum design value in 2023 that exceeds the NAAQS are considered maintenance receptors. EPA's method of defining these receptors takes into account both measured data and projections based on modeling analysis.

Recognizing that nonattainment receptors are also, by definition, maintenance receptors, EPA often uses the term ''maintenance-only'' to refer to receptors that are not also nonattainment receptors. Consistent with the methodology described above, monitoring sites with a projected maximum design value that exceeds the NAAQS, but with a projected average design value that is below the NAAQS, are identified as maintenance-only receptors. In addition, those sites that are currently measuring ozone concentrations below the level of the applicable NAAQS, but are projected to be nonattainment based on the average design value and that, by definition, are projected to have a maximum design value above the standard are also identified as maintenance-only receptors.

To evaluate future air quality in steps 1 and 2 of the interstate transport framework, EPA is using the 2016 and 2023 base case emissions developed under the EPA/MJO/state collaborative emissions modeling platform project as the primary source for base year and 2023 future year emissions data for this proposal.[26]

To quantify the contribution of emissions from specific upwind states on 2023 8-hour design values for the identified downwind nonattainment and maintenance receptors, EPA first performed nationwide, state-level ozone source apportionment modeling. The source apportionment modeling provided contributions to ozone from precursor emissions of anthropogenic nitrogen oxides (NO_X) and volatile organic compounds (VOCs) in each state, individually. Details on the source apportionment modeling and the methods for determining contributions are in the Air Quality Modeling TSD in the docket.

The design values and contributions were examined to determine if Kansas contributes at or above the threshold of one percent of the 2015 ozone NAAQS (0.70 ppb) to any downwind nonattainment or maintenance receptor. The data[27] indicate that the highest contribution in 2023 from Kansas to downwind nonattainment or maintenance receptors is 0.60 ppb, below the one percent of the NAAQS screening threshold. Kansas contributes 0.49 ppb or less to 11 nonattainment receptors in five states and 0.60 ppb or less to seven maintenance receptors in five states. Although Kansas argued that an alternative contribution threshold of 1 ppb was a more appropriate threshold than a threshold of one percent of the NAAQS, updated EPA modeling supports the conclusion that the State is projected to contribute less than both the one percent and 1 ppb thresholds to downwind receptors. Therefore, EPA will not, in this proposal, evaluate whether the State provided a technically sound assessment of the appropriateness of using an alternative

based on the facts and circumstances underlying its application in the particular SIP submission.

[22] *See* 86 FR 23054 (April 30, 2021). The results of this modeling are included in a spreadsheet in the docket for this action. The underlying modeling files are available for public access in the docket for the Revised CSAPR Update (EPA–HQ–OAR–2020–0272).

[23] 531 F.3d at 910–911 (holding that EPA must give ''independent significance'' to each prong of CAA section 110(a)(2)(D)(i)(I)).

[24] *See* 81 FR 74504 (October 26, 2016). Revised CSAPR Update also used this approach. *See* 86 FR 23054 (April 30, 2021). This same concept, relying on both current monitoring data and modeling to define nonattainment receptor, was also applied in CAIR. *See* 70 FR 25241 (January 14, 2005). *See also North Carolina,* 531 F.3d at 913–914 (affirming as reasonable EPA's approach to defining nonattainment in CAIR).

[25] *See* 76 FR 48208 (August 8, 2011). CSAPR Update and Revised CSAPR Update also used this approach. *See* 81 FR 74504 (October 26, 2016) and *See* 86 FR 23054 (April 30, 2021).

[26] *See* 86 FR 23054 (April 30, 2021). The results of this modeling are included in a spreadsheet in the docket for this action. The underlying modeling files are available for public access in the docket for the Revised CSAPR Update (EPA–HQ–OAR–2020–0272).

[27] The data are given in the ''Air Quality Modeling Technical Support Document for the Revised Cross-State Air Pollution Rule Update'' and ''Ozone Design Values and Contributions Revised CSAPR Update.xlsx,'' which are included in the docket for this action.

1 ppb threshold based on the facts and circumstances underlying its application in the particular SIP submission. This should not be understood to mean that EPA approves of the State's application of the 1 ppb threshold; rather, the State's use of the alternative threshold is inconsequential to EPA's evaluation of the State's submittal in this instance.

EPA also analyzed emissions trends for ozone precursors in Kansas to support the findings from the air quality analysis. EPA focused on state-wide emissions of NO_X and VOC from anthropogenic sources.[28] Emissions from mobile sources, electric generating units (''EGUs''), industrial facilities, gasoline vapors, and chemical solvents represent the majority of the major anthropogenic sources of ozone precursors in Kansas. This evaluation looks at both past emissions trends, as well as projected trends.

As shown in Table 1, for Kansas, between 2011 and 2019, annual total NO_X and VOC emissions from anthropogenic source categories have declined by 38 percent and 18 percent, respectively. Between 2016 and 2023, annual NO_X emissions are projected to decline by 30 percent as a result of the implementation of existing control programs that will continue to decrease NO_X emissions in Kansas as indicated by EPA's most recent 2023 projected emissions.

As shown in Table 2, onroad and nonroad mobile source emissions collectively comprise a large portion of the State's total anthropogenic NO_X and VOC. For example, in 2019, NO_X emissions from mobile sources in Kansas comprised 45 percent of total NO_X emissions and 16 percent of total VOC emissions.

The large decrease in NO_X emissions between 2011 emissions and projected 2023 emissions in Kansas is primarily driven by reductions in emissions from onroad and nonroad mobile sources. EPA projects that the total anthropogenic NO_X emissions and the highway and off highway VOC emissions will continue declining out to 2023 as newer vehicles and engines that are subject to the most recent, stringent mobile source standards replace older vehicles and engines.[29]

In summary, there is no evidence to suggest that the overall emissions trend for Kansas demonstrated in Table 1 will suddenly reverse or spike in 2021 or 2022 compared to historical emissions levels or those projected for 2023. Further, there is no evidence that the projected NO_X emissions trend out to 2023 and beyond would not continue to show a decline in emissions from Kansas. In addition, EPA's normal practice is to include in our modeling only changes in NO_X or VOC emissions that result from final regulatory actions. Any potential changes in NO_X or VOC emissions that may result from possible future or proposed regulatory actions are speculative.

This general downward trend in emissions in Kansas adds support to the air quality analyses presented above and indicates that the contributions from emissions from sources in the State to ozone receptors in downwind states will generally continue to decline and remain below one percent of the NAAQS.

TABLE 1—ANNUAL EMISSIONS OF NO_X AND VOC FROM ANTHROPOGENIC SOURCES IN KANSAS

[Tons per year][30]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	Projected 2023
NO_X	312,156	299,082	286,009	272,935	252,036	221,455	207,211	200,848	192,785	160,604
VOC	241,708	233,580	225,452	217,324	213,915	205,771	203,151	201,133	199,115	173,201

TABLE 2—ANNUAL EMISSIONS OF NO_X AND VOC FROM ONROAD AND NONROAD VEHICLES COMBINED IN KANSAS

[Tons per year]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	Projected 2023
NO_X	153,185	147,604	142,022	136,441	125,317	104,509	100,040	93,248	86,456	62,193
VOC	58,563	55,930	53,297	50,664	46,810	38,220	35,155	33,137	31,119	24,851

Thus, EPA's evaluation of measured and monitored data, and contribution values in 2023, as discussed in this section, is consistent with conclusions made by Kansas that emissions from sources in the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

IV. Proposed Action

EPA is proposing to approve the October 1, 2018 SIP submittal as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS.

The Agency is soliciting public comments on its proposed approval of the CAA section 110(a)(2)(D)(i)(I) element of Kansas's infrastructure SIP submittal for the 2015 ozone NAAQS. Significant comments will be considered before taking final action.

[28] This is because ground-level ozone is not emitted directly into the air but is formed by chemical reactions between ozone precursors, chiefly NO_X and VOC, in the presence of sunlight. *See* 86 FR 23054, 23063.

[29] Tier 3 Motor Vehicle Emission and Fuel Standards (79 FR 23414, April 28, 2014); Mobile Source Air Toxics Rule (MSAT2) (72 FR 8428, February 26, 2007), Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (66 FR 5002, January 18, 2001); Clean Air Nonroad Diesel Rule (69 FR 38957, June 29, 2004); Locomotive and Marine Rule (73 FR 25098, May 6, 2008); Marine Spark-Ignition and Small Spark-Ignition Engine Rule (73 FR 59034, October 8, 2008); New Marine Compression-Ignition Engines at or Above 30 Liters per Cylinder Rule (75 FR 22895, April 30, 2010); and Aircraft and Aircraft Engine Emissions Standards (77 FR 36342, June 18, 2012).

[30] The annual emissions data for the years 2011 through 2019 were obtained from EPA's National Emissions Inventory website: *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data.* Note that emissions from miscellaneous sources are not included in the State totals presented in Table 1. The emissions for 2023 are based on the 2016 emissions modeling platform. *See* ''2005 thru 2019_2021_2023_2028 Annual State Tier1 Emissions_v3'' and the Emissions Modeling TSD in the docket for this action.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register** document.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: February 1, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is proposed to be 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 R—Kansas

■ 2. In § 52.870, the table in paragraph (e) is amended by adding the entry ''(47)'' in numerical order to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(47) Transport SIP for the 2015 Ozone Standard.	Statewide	9/27/2018	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	[EPA–R07–OAR–2022–0075; FRL–9428–01–R7]. This transport SIP shows that Kansas does not significantly contribute to ozone nonattainment or maintenance in any other state. This submittal is approved as meeting the requirements of Clean Air Act section 110(a)(2)(D)(i)(I).

[FR Doc. 2022–02461 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2021–0153; FF09E21000 FXES1111090FEDR 223]

Endangered and Threatened Wildlife and Plants; 12-Month Finding for the Sonoran Desert Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Sonoran desert tortoise (*Gopherus morafkai*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list the Sonoran desert tortoise. However, we ask the public to submit to us at any time any new information relevant to the status of the Sonoran desert tortoise or its habitat.

DATES: The finding in this document was made on February 8, 2022.

ADDRESSES: A detailed description of the basis for this finding is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2021–0153.

Supporting information used to prepare this finding is available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning this finding to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mark Lamb, Arizona Ecological Services Field Office, 9828 North 31st Ave. C3, Phoenix, AZ 85051–2517; telephone 602–242–0210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded. We must publish a notice of these 12-month findings in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act states that the term ''species'' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). The Act defines an ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and a ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;
(B) Overutilization for commercial, recreational, scientific, or educational purposes;
(C) Disease or predation;
(D) The inadequacy of existing regulatory mechanisms; or
(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as the Service can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity,

certain behaviors, and other demographic factors.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Sonoran desert tortoise meets the definition of an endangered species or a threatened species, we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petition, information available in our files, and other available published and unpublished information. Our evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment form for the species contains more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that the species does not meet the Act's definition of an endangered species or a threatened species. A thorough review of the taxonomy, life history, ecology, and stressors to the Sonoran desert tortoise is presented in the species status assessment report (USFWS 2021, entire). This supporting information can be found on the internet at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2021–0153. The following is an informational summary for the finding in this document.

Previous Federal Actions

On December 30, 1982, the Service published in the **Federal Register** (47 FR 58454) a notice of review that determined the desert tortoise (*Gopherus agassizii*) throughout its range in the United States and Mexico to be a Category 2 candidate species. Category 2 candidate species were taxa for which the Service had in its possession information that indicated that proposing to list the species as endangered or threatened was possibly appropriate, but for which substantial biological data were not available to support a proposed rule. On April 2, 1990, we published in the **Federal Register** (55 FR 12178) a final rule designating the Mojave population of the desert tortoise (occurring north and west of the Colorado River) as a threatened species under the Act. Currently, the Mojave population of the desert tortoise is recognized as a distinct population segment (DPS) under the Act.

On October 15, 2008, we received a petition dated October 9, 2008, from WildEarth Guardians and Western Watersheds Project (petitioners) requesting that the Sonoran population of the desert tortoise be listed under the Act as a distinct population segment (DPS) and that the DPS be listed as endangered or threatened range-wide (in the United States and Mexico). The petitioners also requested that critical habitat be designated for the DPS. On August 28, 2009, we published in the **Federal Register** (74 FR 44335) our 90-day finding that the petition presented substantial scientific information indicating that listing the Sonoran population of the desert tortoise may be warranted. That document also initiated a status review of the Sonoran population of the desert tortoise.

On December 14, 2010, we published in the **Federal Register** (75 FR 78094) our 12-month finding that listing the Sonoran DPS of the desert tortoise was warranted, but precluded by other higher priority actions, and the entity was added to our list of candidate species. In 2012, new information was assessed that elevated the Sonoran population of the desert tortoise to a full species (*Gopherus morafkai*). We noted this taxonomic change in the 2012 candidate notice of review (CNOR) and revised its accepted nomenclature to ''Sonoran desert tortoise'' (77 FR 69994; November 21, 2012). We also reaffirmed its candidate status in the CNORs published in 2012 (77 FR 69994; November 21, 2012), 2013 (78 FR 70104; November 22, 2013), and 2014 (79 FR 72450; December 5, 2014), reaffirming that it was warranted for listing but remained precluded by higher priority actions. After completing a species status assessment, we published in the **Federal Register** (80 FR 60321; October 6, 2015) a 12-month petition finding that listing the Sonoran desert tortoise as endangered or threatened under the Act was not warranted.

The petitioners filed a complaint on September 5, 2019, challenging our 2015 not-warranted finding for the Sonoran desert tortoise and alleging violations of the Act. We reached a settlement agreement with the petitioners that was approved by the U.S. District Court on August 3, 2020, to reconsider our not-warranted finding and to develop a new 12-month finding as to whether the Sonoran desert tortoise warrants listing as an endangered or threatened species under the Act. As a result of that agreement, we returned the Sonoran desert tortoise to the candidate list (see 85 FR 73164; November 16, 2020). This document constitutes our new 12-month finding.

Summary of Finding

The Sonoran desert tortoise occurs in the Sonoran Desert ecoregion of Arizona in the United States and Sonora in Mexico. It is patchily distributed across a large range that covers roughly 68,600 square miles (177,673 square kilometers). Adapted to arid environments, Sonoran desert tortoises spend most of their time in below-ground shelter-sites, with emergence timed to resource availability such as precipitation or forage. Precipitation, particularly the summer monsoons, encourages new vegetative growth that is consumed by Sonoran desert tortoises. Typical habitat consists of rocky slopes and incised washes that support shelter sites. The amount and distribution of this habitat is important to maintain the species' viability.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Sonoran desert tortoise, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. We identified several threats that could reduce the viability of the species. Some, such as nonnative vegetation and altered wildfire regimes, have the potential to affect the Sonoran desert tortoise on localized scales and the best available information suggests these threats are unlikely to affect long-term viability of the species. Human development can degrade or remove Sonoran desert tortoise habitat and contribute to reduced survival rates due to human-tortoise interactions and incidental mortality. Suitable Sonoran desert tortoise habitat in portions of the species' range, particularly in Arizona, has been converted to human development. Drought has a measurable effect on the Sonoran desert tortoise's survival rates and may become more frequent and severe into the future due to climate change. Changes in precipitation and temperature patterns may also affect the amount and suitability of Sonoran desert tortoise habitat. Several Federal, State, and county agencies have been implementing conservation measures through best management practices, specific to the Sonoran desert tortoise, to help sustain the species and its habitat where possible.

Currently, we estimate that the Sonoran desert tortoise occupies much of its historical range and is abundant in Arizona and Sonora, on the order of hundreds of thousands of extant adults. Population monitoring data collected for approximately 20 to 30 years on 17 plots

located on Bureau of Land Management (BLM) land in portions of the species' range in Arizona have not indicated substantial declines or extirpations. Habitat modeling indicates an estimated 49,222 square miles (127,484 square kilometers) of suitable Sonoran desert tortoise habitat occurs in Arizona and Sonora, with 24 percent of that considered high suitability. In Arizona, 29 percent of the species' range is on publicly-owned lands managed specifically for the benefit of wildlife, including the Sonoran desert tortoise.

Upon examining the current trends and a range of future scenarios, we expect that human development and climate change will have the greatest impact on the Sonoran desert tortoise's viability due to its effects on habitat and survival rates. Urban expansion may result in the loss of Sonoran desert tortoise habitat, and adult survival rates have been shown to decrease in proximity to urban areas. Drought, a primary stressor shown to result in population crashes over abbreviated time frames, significantly reduces survival rates and may become more common and severe with climate change. The amount and distribution of habitat may also shift due to changes in precipitation and temperature patterns driven by climate change. In our species status assessment report, we modeled these effects to project Sonoran desert tortoise population trends into the future (USFWS 2021, pp. 59–71).

Even with the projected effects of urban expansion and climate change, ample amounts of habitat capable of supporting Sonoran desert tortoises are expected to remain by the end of the century. Although declines in survival are anticipated near urban areas, we found these effects are not enough to significantly reduce viability of the species as a whole, and the affected areas only cover a relatively small portion of the species' range (17 percent). Our modeling projects that future drought is expected to result in a negative growth rate by the end of century and likely declines in overall abundance. The magnitude of these declines varies depending on the assumptions of future environmental changes. However, our modeling indicates that the risk of quasi-extinction by end of century is less than 1 percent regardless of the scenario. Due to high current estimated population sizes and a large area of suitable habitat, even with the projected declines, we anticipate the Sonoran desert tortoise will continue to occupy the majority of currently suitable habitat in sufficient numbers such that the species maintains viability. After evaluating the best available scientific and commercial information on potential threats acting individually or in combination, we find that Sonoran desert tortoise populations are expected to maintain resiliency, redundancy, and representation in the foreseeable future throughout all or a significant portion of the species' range.

Our review of the best available scientific and commercial information regarding the past, present, and future threats to the species indicates that the Sonoran desert tortoise is not in danger of extinction nor likely to become endangered within the foreseeable future throughout all or a significant portion of its range and does not meet the definition of an endangered species or a threatened species under the Act. Therefore, we find that listing the Sonoran desert tortoise as an endangered or threatened species under the Act is not warranted at this time. A detailed discussion of the basis for this finding can be found in the Sonoran desert tortoise species assessment form, which outlines in more detail the rationale for our decision, and the revised species status assessment report (USFWS 2021, entire), and other supporting documents (see **ADDRESSES**, above), which capture the scientific information upon which our decision was based.

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Sonoran desert tortoise to the person listed above under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor this species and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

References Cited

A list of the references cited in this document is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2021–0153 in the species assessment form, or upon request from the person listed above under **FOR FURTHER INFORMATION CONTACT**.

Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–02422 Filed 2–7–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FF09E21000 FXES1111090FEDR 223]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Three Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on three petitions to add species to the Lists of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions to list the thick-leaf bladderpod (*Physaria pachyphylla*) and variable cuckoo bumble bee (*Bombus variabilis*) present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we are initiating status reviews of these species to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we request scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act. We further find that the petition to recognize the Texas population of the ocelot (*Leopardus pardalis*) as a distinct population segment (DPS) and to list that DPS does not present substantial scientific or commercial information indicating the petitioned action may be warranted. Therefore, we are not initiating a status review of the Texas ocelot population.

DATES: These findings were made on February 8, 2022. As we commence our status reviews, we seek any new information concerning the status of, or

threats to, the thick-leaf bladderpod or variable cuckoo bumble bee, or their habitats. Any information we receive during the course of our status reviews will be considered.

ADDRESSES:

Supporting documents: Summaries of the basis for the petition findings contained in this document are available on *https://www.regulations.gov* under the appropriate docket number (see tables under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, the thick-leaf bladderpod or variable cuckoo bumble bee, or their habitats, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter the appropriate docket number (see Table 1 under **SUPPLEMENTARY INFORMATION**). Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment.'' If your information will fit in the provided comment box, please use this feature of *https://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard* copy: Submit by U.S. mail to: Public Comments Processing, Attn: [Insert appropriate docket number; see Table 1 under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see *Information Submitted for a Status Review,* below).

FOR FURTHER INFORMATION CONTACT:

Species common name	Contact person
Thick-leaf bladderpod	Ben Conard, Deputy Project Leader, Montana Ecological Services Field Office, 406–758–6882, *Ben_Conard@fws.gov.*
Variable cuckoo bumble bee	Louise Clemency, Field Supervisor, Chicago Ecological Services Field Office, 312–485–9337, *Louise_Clemency@fws.gov.*
Texas population of ocelot	Hilary Swarts, Wildlife Biologist, Laguna Atascosa National Wildlife Refuge, 956–748–3607, *Hilary_Swarts@fws.gov.*

If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.,* ''list'' a species), remove a species from the List (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative

effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

We note that designating critical habitat is not a petitionable action under the Act. Petitions to designate critical habitat (for species without existing critical habitat) are reviewed under the Administrative Procedure Act and are not addressed in this finding (see 50 CFR 424.14(j)). To the maximum extent prudent and determinable, any proposed critical habitat will be addressed concurrently with a proposed rule to list a species, if applicable.

Summaries of Petition Findings

The petition findings contained in this document are listed in the tables below, and the basis for each finding, along with supporting information, is available on *https://www.regulations.gov* under the appropriate docket number.

TABLE 1—STATUS REVIEWS

Common name	Docket No.	URL to Docket on *https://www.regulations.gov*
Thick-leaf bladderpod	FWS–R6–ES–2021–0117	*https://www.regulations.gov/docket/FWS-R6-ES-2021-0117.*
Variable cuckoo bumble bee	FWS–R3–ES–2021–0118	*https://www.regulations.gov/docket/FWS-R3-ES-2021-0118.*

TABLE 2—NOT-SUBSTANTIAL PETITION FINDING

Common name	Docket No.	URL to Docket on *https://www.regulations.gov*
Texas population of ocelot	FWS–R2–ES–2021–0119	*https://www.regulations.gov/docket/FWS-R2-ES-2021-0119.*

Evaluation of a Petition To List the Thick-Leaf Bladderpod

Species and Range

Thick-leaf bladderpod (*Physaria pachyphylla*); Montana and Wyoming.

Petition History

On March 11, 2021, we received a petition from the Center for Biological Diversity, Montana Native Plant Society, and Pryors Coalition, requesting that the thick-leaf bladderpod be listed as an endangered species or a threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Evaluation of Information

The petitioners state that a gypsum exploration project is proposed in the Pryor Foothills Research Natural Area (RNA)/Area of Critical Environmental Concern (ACEC) within the largest documented subpopulation of the thick-leaf bladderpod. If the proposed exploration project occurs, these activities may result in unavoidable impacts to thick-leaf bladderpod populations through habitat loss and modification, invasive species introduction, and direct mortality, and upgrades to access roads in the project area will have potential impacts to thick-leaf bladderpod individuals and habitat. In 2015, the Pryor Foothills RNA/ACEC was recommended for withdrawal from all locatable mineral entry; however, the withdrawal has not occurred. If the proposed exploration finds marketable gypsum, then further gypsum mining is foreseeable. The proposed project is currently under review by the Bureau of Land Management.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. Based on our review of the petition and readily available information regarding gypsum mining exploration (Factor A), we find that the petition presents substantial scientific or commercial information indicating that listing the thick-leaf bladderpod as an endangered or threatened species may be warranted. The petitioners also presented information suggesting off-road vehicle use may be a threat to the thick-leaf bladderpod. We will fully evaluate ORV use and other potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific information when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found as an appendix at *https://www.regulations.gov* under Docket No. FWS–R6–ES–2021–0117 under the Supporting Documents section.

Evaluation of a Petition To List Variable Cuckoo Bumble Bee

Species and Range

Variable cuckoo bumble bee (*Bombus variabilis*); Alabama, Arizona, Arkansas, California, Delaware, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia; Canada (Ontario); and Mexico.

Petition History

On May 17, 2021, we received a petition from the Center for Biological Diversity requesting that the variable cuckoo bumble bee be listed as an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Evaluation of Information

The petitioner provided credible information indicating potential threats to the variable cuckoo bumble bee

within multiple populations across its range due to the loss of the host species, the American bumble bee (*Bombus pensylvanicus*), which supports the feeding and nesting of variable cuckoo bumble bees (Factor E). The petitioner also provided credible information that the existing regulatory mechanisms may be inadequate to address these potential threats (Factor D).

Finding

We reviewed the petition and sources cited in the petition. We considered the factors under section 4(a)(1) and assessed the effect that the threats identified within the factors—as may be ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts—may have on the species now and in the foreseeable future. Based on our review of the petition regarding the loss of the host species (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the variable cuckoo bumble bee as an endangered or threatened species may be warranted. The petitioner also presented information suggesting habitat destruction from agricultural intensification, livestock grazing, and pesticide use; pathogen spillover; loss of genetic diversity; and climate change may be threats to the variable cuckoo bumble bee. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found as an appendix at *https://www.regulations.gov* under Docket No. FWS–R3–ES–2021–0118 under the Supporting Documents section.

Evaluation of a Petition To List the Texas Population of Ocelot

Species and Range

Ocelot (*Leopardus pardalis*); Texas, Arizona, Argentina, Belize, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, French Guiana, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Petition History

Ocelots have been listed as an endangered species rangewide under the Act since 1972 (37 FR 6476; March 30, 1972), which includes where they are found in Arizona and Texas (47 FR 31670; July 21, 1982). On March 30, 2021, we received a petition from WildEarth Guardians dated February 2, 2021, requesting that the Texas population of ocelots be classified as a distinct population segment (DPS) and listed as an endangered species or a threatened species under the Act. The petition also requested designation of critical habitat for the Texas population of ocelots. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Evaluation of Information

We evaluated information provided in the petition to determine if the petition identified an entity that may be eligible for listing as a DPS under the Service's Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (DPS policy) (61 FR 4722; February 7, 1996). Our evaluation concluded that the petition did not provide substantial information that the Texas population of ocelots may meet the significance criteria of our DPS policy. Therefore, we did not further evaluate whether the petition presents substantial information indicating that the petitioned action may be warranted.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition does not present substantial scientific or commercial information indicating the petitioned action may be warranted for the ocelot. The petition from WildEarth Guardians requests designation of the ocelot populations in Texas as a DPS. Under the Service's DPS policy, the elements for listing a DPS are that the population is both discrete and significant and meets the definition of an endangered species or threatened species (61 FR 4722; February 7, 1996). The petition presents substantial information that Texas ocelots may meet both elements of discreteness as defined by the DPS policy, due to (1) marked separation as evidenced by extensive development along the border and little to no genetic exchange between ocelots in Texas and Mexico and (2) differences in control of exploitation and regulatory mechanisms to protect the species between the United States and Mexico. However, the petition does not present substantial scientific or commercial information explicitly related to the significance of Texas ocelots relative to the taxon. Furthermore, information available in our files refutes the claims made in the petition. We find that the ecological setting in which Texas ocelots occur is not unique and, therefore, Texas ocelots do not persist in a unique ecological setting compared to the rest of the taxon. In addition, we find that the loss of the Texas ocelot populations would not represent a significant gap in the species' range. Thus, after reviewing the information presented in the petition, we determined that the petition does not present substantial information indicating that the ocelot population in Texas may meet the significance element to be a Distinct Population Segment.

Because the petition does not present substantial information indicating that the Texas ocelot population meets the standard of a DPS, we are not initiating a status review of this species in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this species or its habitat at any time (see appropriate contact under **FOR FURTHER INFORMATION CONTACT** above).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2021–0119 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for the thick-leaf bladderpod and variable cuckoo bumble bee present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species. In addition, we have determined that the petition summarized above for the Texas population of ocelots does not present substantial scientific or commercial information indicating that the petitioned entity may qualify as a DPS. Therefore, it is not a listable entity under the Act. We are, therefore, not initiating a status review of this species in response to the petition.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–02545 Filed 2–7–22; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 87, No. 26

Tuesday, February 8, 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

Submission for OMB Review; Comment Request

February 3, 2022.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by March 10, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0579–0377.

Summary of Collection: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, the Animal and Plant Health Inspection Service (hereafter ''APHIS'') seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on its service delivery. By qualitative feedback APHIS means information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This collection of information is necessary to enable APHIS to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with its commitment to improving service delivery. The information collected from APHIS's customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with APHIS's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between APHIS and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Need and Use of the Information: This information collection activity provides a means for the Animal and Plant Health Inspection Service (APHIS) to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with APHIS' commitment to improving service delivery.

By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback provides insights into customer or stakeholder perceptions, experiences, and expectations; provides an early warning of issues with service; or focuses attention on areas where communication, training, or changes in operations might improve delivery of products or services. This collection will allow for ongoing, generic collaborative and actionable communications between APHIS and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on APHIS' services will be unavailable.

Description of Respondents: Individuals and households; businesses and organizations; State, local, or Tribal governments; and foreign federal governments.

Number of Respondents: 70,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 17,500.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–02595 Filed 2–7–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–21–CF–0023]

Rural Community Development Initiative (RCDI) for Fiscal Year 2022

AGENCY: Rural Housing Service, Department of Agriculture.

ACTION: Notice of solicitation of applications.

SUMMARY: The Rural Housing Service, a Rural Development agency of the United

States Department of Agriculture (USDA), announces the acceptance of applications under the Rural Community Development Initiative (RCDI) program for fiscal year (FY) 2022. These grants will be made to qualified intermediary organizations that will provide financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development that will support the community. The NOSA is being issued prior to passage of a final appropriations act for FY 2022 to allow potential applicants time to submit applications for financial assistance under the program and to give the Agency time to process applications. Once the FY 2022 funding amount is determined, the Agency will publish it on its website at *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

DATES: Completed applications must be submitted using one of the following methods:

- *Paper:* The Agency must receive a paper application by 4:00 p.m. local time, April 25, 2022. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX), electronic mail, and postage due applications will not be accepted. The application dates and times are firm. The Agency will not consider any application received after the deadline.
- *Electronic:* Electronic applications must be submitted via *Grants.gov* by 11:59 p.m. Eastern time on April 19, 2022. The application dates and times are firm. The Agency will not consider any application received after the deadline.

ADDRESSES: Applicants wanting to apply for assistance may download the application documents and requirements as stated in this Notice from the RCDI website: *https://www.rd.usda.gov/programs-services/community-facilities/rural-community-development-initiative-grants.*

Application information for electronic submissions may be found at *https://www.grants.gov/.*

Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State offices contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

FOR FURTHER INFORMATION CONTACT: Shirley J. Stevenson, Community Programs Specialist, Rural Development, United States Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250, Phone: (202) 205–9685, Email: *Shirley.Stevenson@usda.gov.*

SUPPLEMENTARY INFORMATION:

Authority

This solicitation is authorized pursuant by Congress in 1999 (Pub. L. 106–78), amended by the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), and funding continued under the enactment of the Continuing Appropriations Act, 2021 (Pub. L. 116–260).

Rural Development: Key Priorities

The Agency encourages applicants to consider projects that will advance the following key priorities:

- Assisting rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities;
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

For further information, visit *https://www.rd.usda.gov/priority-points.*

Overview

Federal Agency: Rural Housing Service (RHS).

Funding Opportunity Title: Rural Community Development Initiative.

Announcement Type: Notice of Solicitation of Applications (NOSA).

Funding Amount: The NOSA is being issued prior to the passage of a final appropriations act for Fiscal Year (FY) 2022. Once the funding amount for this Program has been established by final appropriations act for FY 2022, the Agency will publish it on its website at: *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

*Assistance Listing (AL) (*Formerly *the Catalog of Federal Domestic Assistance (CFDA)) Number:* 10.446.

Funding Opportunity Number: USDA–RD–HCFP–RCDI–2022.

Due Dates: Applications must be submitted using one of the following methods:

- *Paper:* The deadline for receipt of a paper application is 4 p.m. local time, April 25, 2022.
- *Electronic:* Electronic applications will be accepted via *Grants.gov*. The deadline for receipt of an electronic applications via *Grants.gov* is 11:59 p.m. Eastern time on April 19, 2022. The application dates and times are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX), electronic mail and postage due applications will not be accepted. Prior to official submission of applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are made prior to April 14, 2022. Technical assistance is not meant to be an analysis or assessment of the quality of the materials submitted, a substitute for agency review of completed applications, nor a determination of eligibility, if such determination requires in-depth analysis. The Agency will not solicit or consider scoring or eligibility information that is submitted after the application deadline. The Agency reserves the right to contact applicants to seek clarification information on materials contained in the submitted application.

Items in the Supplementary Information

I. Program Description
II. Federal Award Information
III. Definitions
IV. Eligibility Information
V. Application and Submission Information
VI. Application Review Information
VII. Federal Awarding Administration Information
VIII. Federal Awarding Agency Contacts
IX. Other Information

I. Program Description

Congress first authorized the RCDI in 1999 pursuant to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act 2000 (Pub. L. 106–78), as amended by the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), and funding continued under the enactment of the Continuing Appropriations Act, 2021 (Pub. L. 116–260). The program is designed to assist qualified private organizations, nonprofit organizations, and public (including tribal) intermediary organizations, proposing to carry out financial and technical assistance programs to improve housing, community facilities, and community and economic development projects in rural areas. The RCDI program requires the intermediary (grantee) to provide a program of financial and technical

assistance to recipients. The recipients will, in turn, provide programs to their communities (beneficiaries).

II. Federal Award Information

The Agency will publish the amount of funding received for FY 2022 on its website at: *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

Qualified private organizations, nonprofit organizations and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive grant funding.

The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant. In-kind contributions cannot be used as matching funds. Partnerships with other federal, state, local, private, and nonprofit entities are encouraged.

The respective minimum and maximum grant amounts per intermediary are $50,000 and $250,000, respectively. The intermediary must provide a program of financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development that will support the community.

Grant funds must be utilized within three years from date of the award.

A grantee that has an outstanding RCDI grant over three years old, as of the application due date in this Notice, is not eligible to apply for this round of funding.

The intermediary must provide a program of financial and technical assistance to one or more of the following: A private, nonprofit community-based housing and development organization, a low-income rural community or a federally recognized Tribe. An intermediary proposing to serve one or more Federally recognized tribes must include a resolution of support with its application from the Tribes it proposes to serve. If the resolution of support is not submitted for each Tribe, the Tribe will be considered ineligible as a recipient. This requirement is being added to ensure collaboration during the application process between intermediaries and all Tribes that they propose to serve.

III. Program Definitions

Agency—The Rural Housing Service or its successor.

Beneficiary—Entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—The ability of a recipient to implement housing, community facilities, or community and economic development projects.

Conflict of interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. An example of conflict of interest occurs when the grantee's employees, board of directors, or the immediate family of either, have the appearance of a professional or personal financial interest in the recipients receiving the benefits or services of the grant.

Federally recognized Tribes—Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs, based on the most recent notice in the **Federal Register** published by the Bureau of Indian Affairs and Tribes that received federal recognition after the most recent publication. Tribally Designated Housing Entities are eligible RCDI recipients.

Financial assistance—Funds, not to exceed $10,000 per award, used by the intermediary to purchase supplies and equipment to build the recipient's capacity.

Funds—The RCDI grant and matching funds that have been provided by the Grantee.

Intermediary—A qualified private organization, nonprofit organization (including faith-based and community organizations and philanthropic organizations), or public (including tribal) organization that provides financial and technical assistance to multiple recipients.

Low-income rural community—An authority, district, economic development authority, regional council, federally recognized Tribe, or unit of government representing an incorporated city, town, village, county, township, parish, Indian reservation or borough whose income is at or below 80 percent of either the state or national Median Household Income as measured by the 2010 Census.

Matching funds—Cash or confirmed funding commitments. Matching funds must be at least equal to the grant amount and committed for a period of not less than the grant performance period.

Recipient—The entity that receives the financial and technical assistance from the intermediary. The recipient must be a nonprofit community-based housing and development organization, a low-income rural community or a federally recognized Tribe.

Rural and rural area—Any area other than (i) a city or town that has a population of greater than 50,000 inhabitants and (ii) the urbanized area contiguous and adjacent to such city or town.

Technical assistance—Skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development.

IV. Eligibility Information

Applicants must meet all of the following eligibility requirements by the application deadline. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible, will not be evaluated further, and will not receive a Federal award.

A. Eligible Applicants

1. Qualified private organizations, nonprofit organizations (including faith-based organizations in accordance with 7 CFR part 16, and community organizations and philanthropic foundations), and public (including tribal) intermediary organizations are eligible applicants. Definitions that describe eligible organizations and other key terms are listed below.

2. The recipient must be a nonprofit community-based housing and development organization, low-income rural community, or federally recognized Tribe based on the RCDI definitions of these groups.

3. Private nonprofit, faith, or community-based organizations must provide a certificate of incorporation and a certificate of good standing from the Secretary of State of the State of incorporation, or other similar and valid documentation of current nonprofit status. For low-income rural community recipients, the Agency requires evidence that the entity is a public body and census data verifying that the median household income of the community where the office receiving the financial and technical assistance is located is at, or below, 80 percent of the State or national median household income, whichever is higher. For Federally

recognized tribes, the Agency needs the page listing their name from the current **Federal Register** list of tribal entities recognized and eligible for funding services (see the definition of Federally recognized tribes in this Notice for details on this list). An intermediary proposing to serve one or more Federally recognized Tribes must include a resolution of support with its application from the Tribes it proposes to serve. If the resolution of support is not submitted for each Tribe, the Tribe will be considered ineligible as a recipient. This requirement is being added to ensure collaboration during the application process between intermediaries and all Tribes that they propose to serve.

4. In prior Fiscal Years any corporation that had been convicted of a felony criminal violation under any Federal law within the preceding 24 months or that had any unpaid Federal tax liability that had been assessed, for which all judicial and administrative remedies had been exhausted or lapsed, and that was not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, has not been eligible for financial assistance provided with full-year appropriated funds in accordance with prior appropriations acts unless a Federal agency had considered suspension or debarment of the corporation and made a determination that this further action was not necessary to protect the interests of the Government. It is possible that a similar provision will be included in the FY appropriations act for FY 2022, once enacted.

B. Cost Sharing or Matching

Matching funds are required to be provided in an amount that, at a minimum, is equal to the amount of the grant.

If this matching fund requirement is not met, the application will be deemed ineligible. See Section V, Application and Submission Information, for required pre-award and post award matching funds documentation submission.

Matching funds must be in the form of cash or confirmed funding commitments that, at a minimum, are equal to the grant amount. Matching funds must also be committed for a period of not less than the grant performance period. These funds can only be used for eligible RCDI activities and must be used to support the overall purpose of the RCDI program.

In-kind contributions such as salaries, donated time and effort, real and nonexpendable personal property, and goods and services cannot be used as matching funds.

Grant funds and matching funds must be used in equal proportions. This does not mean funds have to be used equally by line item.

The request for advance or reimbursement and supporting documentation must show that RCDI fund usage does not exceed the cumulative amount of matching funds used.

Grant funds will be disbursed pursuant to relevant provisions of 2 CFR parts 200 and 400. See Section V, Application and Submission Information, for matching funds documentation and pre-award requirements.

The intermediary is responsible for demonstrating that matching funds are available and committed for a period of not less than the grant performance period to the RCDI proposal. Matching funds may be provided by the intermediary or a third party. Other Federal funds may be used as matching funds if authorized by statute and the purpose of the funds is an eligible RCDI purpose.

RCDI funds will be disbursed on an advance or reimbursement basis. Matching funds cannot be expended prior to execution of the RCDI Grant Agreement.

Applicants must provide matching funds in an amount at least equal to the amount of the Federal grant. Successful applications will be selected by the Agency for funding and will be awarded from funds appropriated for the RCDI program.

C. Other Program Requirements

1. The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area. The physical location of the recipient's office that will be receiving the financial and technical assistance must be in an eligible rural area. If the recipient is a low-income community, the median household income of the area where the office is located must be at or below 80 percent of the State or national median household income, whichever is higher. The applicable Rural Development State Office can assist in determining the eligibility of an area.

A listing of Rural Development State Office contacts can be found at the following link: *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* A map showing eligible rural areas can be found at the following link: *https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=RBSmenu.*

2. RCDI grantees that have an outstanding grant over 3 years old, as of the application due date in this Notice, will not be eligible to apply for this round of funding. Grant and matching funds must be utilized in a timely manner to ensure that the goals and objectives of the program are met.

3. Individuals cannot be recipients.

4. The intermediary must provide a program of financial and technical assistance to the recipient.

5. The intermediary organization must have been legally organized for a minimum of three years and have at least three years prior experience working with private nonprofit community-based housing and development organizations, low-income rural communities, or tribal organizations in the areas of housing, community facilities, or community and economic development.

6. Proposals must be structured to utilize the grant funds within 3 years from the date of the award.

7. Each applicant, whether individually or jointly, may only submit one application for RCDI funds under this Notice. This restriction does not preclude the applicant from providing matching funds for other applications.

8. Recipients can benefit from more than one RCDI application; however, after grant selections are made, the recipient can only benefit from multiple RCDI grants if the type of financial and technical assistance the recipient will receive is not duplicative. The services described in multiple RCDI grant applications must have separate and identifiable accounts for compliance purposes.

9. The intermediary and the recipient cannot be the same entity. The recipient can be a related entity to the intermediary, if it meets the definition of a recipient, provided the relationship does not create a Conflict of Interest that cannot be resolved to Rural Development's satisfaction.

10. If the recipient is a low-income rural community, identify the unit of government to which the financial and technical assistance will be provided (*e.g.,* town council or village board). The financial and technical assistance must be provided to the organized unit of government representing that community, not the community at large.

11. An intermediary proposing to serve one or more Federally recognized tribes must include a resolution of support with its application from the Tribes it proposes to serve. If the resolution of support is not submitted for each Tribe, the Tribe will be considered ineligible as a recipient. This requirement is being added to ensure

collaboration during the application process between intermediaries and all Tribes that they propose to serve.

D. Eligible Grant Purposes

Fund uses must be consistent with the RCDI purpose. Eligible purposes of grant funds include, but are not limited to, the following:

1. Provide technical assistance to develop recipients' capacity and ability to undertake projects related to housing, community facilities, or community and economic development, (*e.g.,* the intermediary hires a staff person to provide technical assistance to the recipient or the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary).
2. Develop the capacity of recipients to conduct community development programs, (*e.g.,* homeownership education or training for business entrepreneurs).
3. Develop the capacity of recipients to conduct development initiatives, (*e.g.,* programs that support micro-enterprise and sustainable development).
4. Develop the capacity of recipients to increase their leveraging ability and access to alternative funding sources by providing training and staffing.
5. Develop the capacity of recipients to provide the technical assistance component for essential community facilities projects.
6. Assist recipients in completing pre-development requirements for housing, community facilities, or community and economic development projects by providing resources for professional services, (*e.g.,* architectural, engineering, or legal).
7. Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, management, financial systems, and information technology.
8. Purchase of computers, software, and printers, limited to $10,000 per award, at the recipient level when directly related to the technical assistance program being undertaken by the intermediary.
9. Provide funds to recipients for training-related travel costs and training expenses related to RCDI.

E. Ineligible Fund Uses

The following is a list of ineligible uses of grant funds:

1. Pass-through grants, and any funds provided to the recipient in a lump sum that are not reimbursements.
2. Funding a revolving loan fund (RLF).
3. Construction (in any form).
4. Salaries for positions involved in construction, renovations, rehabilitation, and any oversight of these types of activities.
5. Intermediary preparation of strategic plans for recipients.
6. Funding prostitution, gambling, or any illegal activities.
7. Grants to individuals.
8. Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.
9. Paying obligations incurred before the beginning date without prior Agency approval or after the ending date of the grant agreement.
10. Purchasing real estate.
11. Improvement or renovation of the grantee's or recipient's office space or for the repair or maintenance of privately-owned vehicles.
12. Any purpose prohibited in 2 CFR part 200 or 400.
13. Using funds for recipient's general operating costs.
14. Using grant or matching funds for Individual Development Accounts.
15. Purchasing vehicles.

F. Program Examples and Restrictions

The following are examples of eligible and ineligible purposes under the RCDI program. (These examples are illustrative and are not meant to limit the activities proposed in the application. Activities that meet the objectives of the RCDI program and meet the criteria outlined in this Notice will be considered eligible.)

1. The intermediary must work directly with the recipient, not the ultimate beneficiaries. For example:

The intermediary provides training and technical assistance to the recipients on developing and updating materials related to the prevention, treatment and recovery activities for opioid use disorder and ensures that high-quality training is provided to communities affected by the opioid epidemic.

2. The intermediary provides training to the recipient on how to conduct homeownership education classes. The recipient then provides ongoing homeownership education to the residents of the community—the ultimate beneficiaries. This ''train the trainer'' concept fully meets the intent of this initiative. The intermediary is providing technical assistance that will build the recipient's capacity by enabling it to conduct homeownership education classes for the public.

This is an eligible purpose. However, if the intermediary directly provided homeownership education classes to individuals in the recipient's service area, this would not be an eligible purpose because the recipient would be bypassed.

3. If the intermediary is working with a low-income community as the recipient, the intermediary must provide the technical assistance to the entity that represents the low-income community and is identified in the application. Examples of entities representing a low-income community are a village board or a town council.

If the intermediary provides technical assistance to the Board of the low-income community on how to establish a cooperative, this would be an eligible purpose. However, if the intermediary works directly with individuals from the community to establish the cooperative, this is not an eligible purpose.

The recipient's capacity is built by learning skills that will enable it to support sustainable economic development in its community on an ongoing basis.

4. The intermediary may provide technical assistance to the recipient on how to create and operate a revolving loan fund. The intermediary may not monitor or operate the revolving loan fund. RCDI funds, including matching funds, cannot be used to fund revolving loan funds.

5. The intermediary may work with recipients to build their capacity to provide planning and leadership development training. The recipients of this training would be expected to assume leadership roles in the development and execution of regional strategic plans. The intermediary would work with multiple recipients in helping communities recognize their connections to the greater regional and national economies.

6. The intermediary could provide training and technical assistance to the recipients on developing emergency shelter and feeding, short-term housing, search and rescue, and environmental accident, prevention, and cleanup program plans. For longer term disaster and economic crisis responses, the intermediary could work with the recipients to develop job placement and training programs and develop coordinated transit systems for displaced workers.

V. Application and Submission Information

A. Address To Request Application Package

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI website: *https://www.rd.usda.gov/programs-services/*

community-facilities/rural-community-development-initiative-grants.

Application information for electronic submissions may be found at *https://www.grants.gov.*

Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State office contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* You may also obtain a copy by calling 202–205–9685.

B. Content and Form of Application Submission

If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and its appeal rights and no further evaluation of the application will occur.

A complete application for RCDI funds must include the following:

1. A summary page, double-spaced between items, listing the following: (This information should not be presented in narrative form.)

a. Applicant's name,

b. Applicant's address,

c. Applicant's telephone number,

d. Name of applicant's contact person, email address and telephone number,

e. County where applicant is located,

f. Congressional district number where applicant is located,

g. Amount of grant request, and

h. Number of recipients.

2. A detailed Table of Contents containing page numbers for each component of the application.

3. A project overview, no longer than one page, including the following items, which will also be addressed separately and in detail under ''Building Capacity and Expertise'' of the ''Evaluation Criteria.''

a. The type of technical assistance to be provided to the recipients and how it will be implemented.

b. How the capacity and ability of the recipients will be improved.

c. The overall goals to be accomplished.

d. The benchmarks to be used to measure the success of the program. Benchmarks should be specific and quantifiable.

4. Organizational documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of current status, from the intermediary that confirms it has been legally organized for a minimum of three years as the applicant entity.

5. Verification of source and amount of matching funds, (*e.g.,* a copy of a complete bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source).

The verification must show that matching funds are available for the duration of the grant performance period. The verification of matching funds must be submitted with the application, or the application will be considered incomplete.

The applicant will be contacted by the Agency prior to grant award to verify that the matching funds provided with the application continue to be available. The applicant will have 15 days from the date contacted to submit verification that matching funds continue to be available.

If the applicant is unable to provide the verification within that timeframe, the application will be considered ineligible. The applicant must maintain bank statements on file or other documentation for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved.

6. The following information for each recipient:

a. Recipient's entity name,

b. Complete address (mailing and physical location, if different),

c. County where located,

d. Number of Congressional district where recipient is located,

e. Contact person's name, email address and telephone number and,

f. Form RD 400–4, ''Assurance Agreement.'' If the Form RD 400–4 is not submitted for each recipient, the recipient will be considered ineligible. No information pertaining to that recipient will be included in the income or population scoring criteria and the requested funding may be adjusted due to the deletion of the recipient.

7. Submit evidence that each recipient entity is eligible. Documentation must be submitted to verify recipient eligibility. Acceptable documentation varies depending on the type of recipient:

a. Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of State of the State of incorporation, a current good standing certification from the Secretary of State of the State of incorporation, or other valid documentation of current nonprofit status of each recipient.

A nonprofit recipient must provide evidence that it is a valid nonprofit when the intermediary applies for the RCDI grant. Organizations with pending requests for nonprofit designations are not eligible.

b. Low-income rural community—provide evidence the entity is a public body (*e.g.,* copy of Charter, relevant Acts of Assembly, relevant court orders (if created judicially) or other valid documentation), a copy of the 2010 census data to verify the population, and 2010 American Community Survey (ACS) 5-year estimates (2006–2010 data set) data as evidence that the median household income is at, or below, 80 percent of either the State or national median household income. We will only accept data and printouts from *https://data.census.gov/cedsci/.*

c. Federally recognized Tribes—provide the page listing their name from the **Federal Register** list of tribal entities published most recently by the Bureau of Indian Affairs. The 2021 list is available at 86 FR 7554, pages 7554—7558 *at the following link: https://www.govinfo.gov/content/pkg/FR-2021-01-29/pdf/2021-01606.pdf.* For Tribes that received federal recognition after the most recent publication, statutory citations and additional documentation may suffice.

An intermediary proposing to serve one or more Federally recognized tribes must include a resolution of support with its application from the Tribes it proposes to serve. If the resolution of support is not submitted for each Tribe, the Tribe will be considered ineligible as a recipient. This requirement is being added to ensure collaboration during the application process between intermediaries and all Tribes that they propose to serve.

8. Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Narrative (not including attachments) must be limited to five pages per criterion. The ''Population and Income'' criteria for recipient locations can be provided in the form of a list; however, the source of the data must be included on the page(s).

9. A timeline identifying specific activities and proposed dates for completion.

10. A detailed project budget that includes the RCDI grant amount and matching funds. This should be a line-item budget, by category. Categories such as salaries, administrative, other, and indirect costs that pertain to the proposed project must be clearly defined. Supporting documentation listing the components of these categories must be included. The budget should be dated: Year 1, year 2, and year 3, as applicable.

11. The indirect cost category in the project budget should be used only when a grant applicant has a federally

negotiated indirect cost rate. A copy of the current rate agreement must be provided with the application. Non-federal entities that have never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200-States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph (d)(1)(B), may use the de minimis rate of 10 percent of modified total direct costs (MTDC).

12. Form SF–424, ''Application for Federal Assistance.''

(Do not complete Form SF–424A, ''Budget Information.'' A separate line-item budget should be presented as described in Letter (j) of this section.)

13. Certification of Non-Lobbying Activities.

14. Standard Form LLL, ''Disclosure of Lobbying Activities,'' if applicable.

Applicants must collect and maintain data provided by recipients on race, sex, and national origin and ensure Ultimate Recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

The applicant and the recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

15. Identify and report any association or relationship with Rural Development employees. (A statement acknowledging whether or not a relationship exists is required.)

C. Unique Entity Identifier (UEI) (Formerly the Dun and Bradstreet Data Universal Numbering System (DUNS)) and System for Awards Management (SAM)

In order to register with System for Award Management (SAM), your organization will need an UEI number. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the SAM registration process.

Grant applicants must obtain an UEI number and register in the SAM System prior to submitting an application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in SAM at all times during which it has an active Federal award or an application or plan under consideration by the Agency. The applicant must ensure that the information in the database is current, accurate, and complete. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM. Similarly, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

An applicant, unless excepted under 2 CFR 25.110(b), (c), or (d), is required to:

1. Be registered in SAM before submitting its application;
2. Provide a valid UEI number in its application; and
3. Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Federal awarding agency (RHS) may not make a federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

As required by the Office of Management and Budget (OMB), all grant applications must provide an UEI number when applying for Federal grants.

Organizations can receive an UEI number at no cost by calling the dedicated toll-free number at 1–866–705–5711 or via internet at *https://fedgov.dnb.com/webform.* Additional information concerning this requirement can be obtained on the *Grants.gov* website at *https://www.grants.gov.* Similarly, applicants may register for SAM at *https://sam.gov* or by calling 1–866–606– 8220.

The applicant must provide documentation that it is registered in SAM and include its UEI number. If the applicant does not provide documentation confirming that it is registered in SAM and its UEI number, the application will not be considered for funding. The required forms and certifications can be downloaded from the RCDI website at: *https://www.rd.usda.gov/programs-services/community-facilities/rural-community-development-initiative-grants.*

D. Submission Dates and Times

In order to register with System for Award Management (SAM), your organization will need an UEI number. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the SAM registration process.

The deadline for receipt of a paper application is 4 p.m. local time, April 25, 2022. The deadline for electronic applications via *Grants.gov* is 11:59 p.m. Eastern time on April 19, 2022. The application dates and times are firm. The Agency will not consider any application received after the deadline. You may submit your application in paper form or electronically through *Grants.gov.* Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX), electronic mail, and postage due applications will not be accepted.

To submit a paper application, the original application package must be submitted to the Rural Development State Office where the applicant's headquarters is located.

A listing of Rural Development State Offices contacts can be found via . *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

Applications will not be accepted via FAX or electronic mail. Applicants may file an electronic application at *https://www.grants.gov. Grants.gov* contains full instructions on all required passwords, credentialing, and software. Follow the instructions at *Grants.gov* for registering and submitting an electronic application. If a system problem or technical difficulty occurs with an electronic application, please use the customer support resources available at the *Grants.gov* website.

Technical difficulties submitting an application through *Grants.gov* will not be a reason to extend the application deadline. If an application is unable to be submitted through *Grants.gov,* a paper application must be received in the appropriate Rural Development

State Office by the deadline noted previously.

First time *Grants.gov* users should carefully read and follow the registration steps listed on the website. These steps need to be initiated early in the application process to avoid delays in submitting your application online.

There are mandatory fields that are required when submitting grant applications through *Grants.gov.* Additional application instructions for submitting an electronic application can be found by selecting this funding opportunity on *Grants.gov.*

E. Funding Restrictions

In accordance with 31 U.S.C. 1345, ''Expenses of Meetings,'' appropriations may not be used for travel, transportation, and subsistence expenses for a meeting. RCDI grant funds cannot be used for these meeting-related expenses. Matching funds may, however, be used to pay for these expenses.

RCDI funds may be used to pay for a speaker as part of a program, equipment to facilitate the program, and the actual room that will house the meeting.

RCDI funds cannot be used for meetings; they can, however, be used for travel, transportation, or subsistence expenses for program-related training and technical assistance purposes. Any training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345. Travel and per diem expenses (including meals and incidental expenses) will be allowed in accordance with 2 CFR parts 200 and 400.

VI. Application Review Information

A. Evaluation Criteria

1. Applications will be evaluated using the following criteria and weights:

a. Building Capacity and Expertise—Maximum 40 Points

The applicant must demonstrate how they will improve the recipients' capacity, through a program of financial and technical assistance, as it relates to the RCDI purposes.

Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic development that will benefit the community. Capacity-building financial and technical assistance may include, but is not limited to: Training to conduct community development programs, (*e.g.,* homeownership education, or the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises); organizational development, (*e.g.,* assistance to develop or improve board operations, management, and financial systems); instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, (*e.g.,* hiring a person at intermediary or recipient level to provide technical assistance to recipients).

The program of financial and technical assistance that is to be provided, its delivery, and the measurability of the program's effectiveness will determine the merit of the application.

All applications will be competitively ranked with the applications providing the most improvement in capacity development and measurable activities being ranked the highest.

The narrative response must contain the following items. This list also contains the points for each item.

(1) Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance (10 Points).

(2) Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively (7 Points).

(3) Identify which RCDI purpose areas will be addressed with this assistance: Housing, community facilities, or community and economic development (3 Points).

(4) Describe how the results of the technical assistance will be measured. What benchmarks will be used to measure effectiveness? Benchmarks should be specific and quantifiable (5 Points).

(5) Demonstrate that the applicant/intermediary has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas (10 Points).

(6) Provide in a chart or excel spreadsheet, the organization name, point of contact, address, phone number, email address, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 3 years (5 Points).

(*a*) Nonprofit organizations in rural areas.

(*b*) Low-income communities in rural areas (also include the type of entity, *e.g.,* city government, town council, or village board).

(*c*) Federally recognized Tribes or any other culturally diverse organizations.

b. Soundness of Approach—Maximum 15 Points

The applicant can receive up to 15 points for soundness of approach. The overall proposal will be considered under this criterion.

The maximum 15 points for this criterion will be based on the following:

(1) The proposal fits the objectives for which applications were invited, is clearly stated, and the applicant has defined how this proposal will be implemented (7 Points).

(2) The ability to provide the proposed financial and technical assistance based on prior accomplishments (6 Points).

(3) Cost effectiveness will be evaluated based on the budget in the application. The proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level (2 Points).

c. Population and Income—Maximum 15 Points

Population is based on the average population from the 2010 census data for the communities in which the recipients are located. The physical address, not mailing address, for each recipient must be used for this criterion. Community is defined for scoring purposes as a city, town, village, county, parish, borough, Indian reservation or census-designated place where the recipient's office is physically located.

The applicant must submit the census data from the following website in the form of a printout to verify the population figures used for each recipient. The data can be accessed on the internet at *https://data.census.gov/cedsci/.* Enter location, P1 (*i.e.,* Parma, Idaho, P1) and click ''search''; the name and population data for each recipient location must be listed in this section.

The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
10,000 or less	5
10,001 to 20,000	4
20,001 to 30,000	3
30,001 to 40,000	2
40,001 to 50,000	1

The average of the median household income for the communities where the recipients are physically located will

determine the points awarded. The physical address, not mailing address, for each recipient must be used for this criterion. Applicants may compare the average recipient median household income to the State median household income or the national median household income, whichever yields the most points. The national median household income to be used is $51,914.

The applicant must submit the income data in the form of a printout of the applicable information from the following website to verify the income for each recipient. The data being used is from the 2010 American Community Survey (ACS) 5-year estimates (2006–2010 data set). The data can be accessed on the internet at *https://data.census.gov/cedsci/;* enter location, S1903 (*i.e.,* Parma, Idaho, S1903), click on ''Search,'' click the drop-down button and select the 2010 ACS–5-year estimates table the name and income data for each recipient location must be listed in this section (use the Household and Median Income column). Points will be awarded as follows:

Average recipient median income	Scoring (points)
Less than or equal to 70 percent of state or national median household income	10
Greater than 70, but less than or equal to 80 percent of state or national median household income	5
In excess of 80 percent of state or national median household income	0

d. State Director's Points Based on Project Merit—Maximum 10 Points

(1) This criterion will be addressed by the Agency, not the applicant.

(2) The State Director may award up to 10 discretionary points for the highest priority project in each state, up to 7 points for the second highest priority project in each state and up to 5 points for the third highest priority project.

These points may be awarded to applicants proposing to advance any or all of the Agency's three key funding priorities, provided that all other requirements set forth in this notice are otherwise met. The key priorities are:

(i) COVID–19 Impacts (up to 4 points); Priority points may be awarded if the project is located in or serving one of the top 10% of counties or county equivalents based upon county risk score in the United States. Information on whether your project qualifies for priority points can be found at the following website: *https://www.rd.usda.gov/priority-points.*

(ii) Equity (up to 3 points); Priority points may be awarded if the project is located in or serving a community with a score of 0.75 or above on the CDC Social Vulnerability Index. Information on whether your project qualifies for priority points can be found at the following website: *https://www.rd.usda.gov/priority-points.*

(iii) Climate Impacts (up to 3 points); Priority points may be awarded if the project is located in or serving coal, oil and gas, and power plant communities whose economic well-being ranks in the most distressed tier of the Distressed Communities Index. Information on whether your project qualifies for priority points can be found at the following website: *https://www.rd.usda.gov/priority-points.*

(3) These points may be awarded by the Rural Development State Director to any application(s) that benefits their State regardless of whether the applicant is headquartered in their State.

(4) When an intermediary submits an application that will benefit a State that is not the same as the State in which the intermediary is headquartered, it is the intermediary's responsibility to notify the State Director of the State which is receiving the benefit of its application. In such cases, State Directors awarding points to applications benefiting their state must notify the reviewing State in writing.

(5) Assignment of any points under this criterion requires a written justification and must be tied to and awarded based on how closely the application aligns with the Rural Development State Office's strategic goals.

e. Administrator Discretionary Points—Maximum 20 Points

The Administrator may award up to 20 discretionary points for projects to address items such as geographic distribution of funds, emergency conditions caused by economic problems, natural disasters and other initiatives identified by the Secretary. The Administrator may also award points to any application that will advance the following key priorities:

- *COVID–19 Impacts:* Priority points may be awarded if the project is located in or serving one of the top 10% of counties or county equivalents based upon county risk score in the United States. Information on whether your project qualifies for priority points can be found at the following website: *https://www.rd.usda.gov/priority-points.*
- *Equity:* Priority points may be awarded if the project is located in or serving a community with score 0.75 or above on the CDC Social Vulnerability Index. Information on whether your project qualifies for priority points can be found at the following website: *https://www.rd.usda.gov/priority-points.* and
- *Climate Impacts:* Priority points may be awarded if the project is located in or serving coal, oil and gas, and power plant communities whose economic well-being ranks in the most distressed tier of the Distressed Communities Index. Information on whether your project qualifies for priority points can be found at the following website: *https://www.rd.usda.gov/priority-points.*

B. Review and Selection Process

1. Rating and Ranking

If requests exceed funds available, the applications will be rated and ranked on a national basis by a review panel based on the ''Evaluation Criteria'' contained in this Notice.

If there is a tied score after the applications have been rated and ranked, the tie will be resolved by reviewing the scores for ''Building Capacity and Expertise'' and the applicant with the highest score in that category will receive a higher ranking. If the scores for ''Building Capacity and Expertise'' are the same, the scores will be compared for the next criterion, in sequential order, until one highest score can be determined.

2. Initial Screening

The Agency will screen each application to determine eligibility during the period immediately following the application deadline. Listed below are examples of reasons for rejection from previous funding rounds. The following reasons for rejection are not all inclusive; however, they represent the majority of the applications previously rejected.

a. Recipients were not located in eligible rural areas based on the definition in this Notice.

b. Applicants failed to provide evidence of recipient's status, *i.e.,* documentation supporting nonprofit evidence of organization.

c. Applicants failed to provide evidence of committed matching funds or matching funds were not committed for a period at least equal to the grant performance period.

d. Application did not follow the RCDI structure with an intermediary and recipients.

e. Recipients were not identified in the application.

f. Intermediary did not provide evidence it had been incorporated for at least three years as the applicant entity.

g. Applicants failed to address the ''Evaluation Criteria.''

h. The purpose of the proposal did not qualify as an eligible RCDI purpose.

i. Inappropriate use of funds (*e.g.,* construction or renovations).

j. The applicant proposed providing financial and technical assistance directly to individuals.

k. The application package was not received by closing date and time.

VII. Federal Award Administration Information

A. Federal Award Notice

Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants in ranked order to eligible applicants under the procedures set forth in this Notice.

Successful applicants will receive a selection letter by mail containing instructions on requirements necessary to proceed with execution and performance of the award. This letter is not an authorization to begin performance. In addition, selected applicants will be requested to verify that components of the application have not changed at the time of selection and on the award obligation date, if requested by the Agency.

The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds'' and the grant agreement.

Unsuccessful applicants will receive notification, including notification of appeal rights, by mail.

B. Administrative and National Policy Requirements

Grantees will be required to do the following:

1. Execute a Rural Community Development Initiative Grant Agreement.

2. Execute Form RD 1940–1, ''Request for Obligation of Funds.''

3. Use Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements. Provide receipts for expenditures, timesheets and any other documentation to support the request for reimbursement.

4. Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.

5. Maintain a financial management system that is acceptable to the Agency.

6. Ensure that records are maintained to document all activities and expenditures utilizing RCDI grant funds and matching funds. Receipts for expenditures will be included in this documentation.

7. Provide annual audits or management reports on Form RD 442–2, ''Statement of Budget, Income and Equity,'' and Form RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.

8. Collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain the same data on beneficiaries. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

9. Provide a final project performance report.

10. Identify and report any association or relationship with Rural Development employees.

11. The intermediary and recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 12250, Age Act of 1975, Executive Order 13166 Limited English Proficiency, and 7 CFR part 1901, subpart E.

12. The grantee must comply with policies, guidance, and requirements as described in the following applicable Code of Federal Regulations, and any successor regulations:

a. 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

b. 2 CFR parts 417 and 180 (Government-wide Debarment and Suspension (Nonprocurement)).

C. Reporting

After grant approval and through grant completion, you will be required to provide the following, as indicated in the Grant Agreement:

1. SF–425, ''Federal Financial Report'' and SF–PPR, ''Performance Progress Report'' will be required on a quarterly basis (due 30 working days after each calendar quarter). The Performance Progress Report shall include the elements described in the grant agreement.

2. Final financial and performance reports will be due 90 calendar days after the period of performance end date.

3. A summary at the end of the final report with elements as described in the grant agreement to assist in documenting the annual performance goals of the RCDI program for Congress.

VIII. Federal Awarding Agency Contact

Contact the Rural Development office in the State where the applicant's headquarters is located. A list of Rural Development State Offices contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

IX. Other Information

No reimbursement will be made for any funds expended prior to execution of the RCDI Grant Agreement unless the intermediary is a non-profit or educational entity and has requested and received written Agency approval of the costs prior to the actual expenditure.

This exception is applicable for up to 90 days prior to grant closing and only applies to grantees that have received written approval but have not executed the RCDI Grant Agreement.

The Agency cannot retroactively approve reimbursement for expenditures prior to execution of the RCDI Grant Agreement.

Paperwork Reduction Act

The paperwork burden has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0575–0180.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this funding announcement has been reviewed in accordance with 7 CFR part 1970 (''Environmental Policies and Procedures''). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action'' and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

All recipients under this Notice are subject to the requirements of 7 CFR part 1970. However, awards for financial and technical assistance under this Notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation.

Non-Discrimination Statement

In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of the alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

1. *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or
2. *Fax:* (833) 256–1665 or (202) 690–7442; or
3. *Email: program.intake@usda.gov*

USDA is an equal opportunity provider, employer, and lender.

Joaquin Altoro,

Administrator, Rural Housing Service.

[FR Doc. 2022–02624 Filed 2–7–22; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology Technical Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology Technical Advisory Committee (ETTAC) will meet on February 23, 2022, at 11:00 a.m., Eastern Standard Time. The meeting will be available via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on the identification of emerging and foundational technologies with potential dual-use applications as early as possible in their developmental stages both within the United States and abroad.

Agenda

Open Session

1. Welcome and Introductions.
2. Introduction by the Bureau of Industry and Security Leadership.
3. Presentation: Space Telescope and Society (NASA), Questions and Answers
4. Public Comments/Announcements

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than February 16, 2022.

To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 1, 2022, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, please contact Yvette Springer via email.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2022–02530 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–909]

Barium Chloride From India: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 1, 2022.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold at (202) 482–1221 and Harrison Tanchuck at (202) 482–7301, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On January 12, 2022, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of barium chloride from India, filed in proper form on behalf of Chemical Products Corporation (the petitioner), a domestic producer of barium chloride.[1] The Petition was accompanied by an antidumping duty (AD) petition concerning imports of barium chloride from India.[2]

On January 14 and 19, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.[3] The petitioner filed responses to these requests on January 19 and 24, 2022.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Barium Chloride from India,'' dated January 12, 2022 (the Petition).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Barium Chloride from India: Supplemental Questions,'' dated January 14, 2022; and ''Petition for the Imposition of Countervailing Duties on Imports of Barium Chloride from India: Supplemental Questions,'' dated January 19, 2021.

[4] *See* Petitioner's Letters, ''Barium Chloride from India: Response to Supplemental Questionnaire on Volume I of the Petition (General Issues and Injury Information),'' dated January 19, 2022 (General Issues Supplement); and ''Barium Chloride from India: Response to Supplemental Questions,'' dated January 24, 2022.

(the Act), the petitioner alleges that the Government of India (GOI) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of barium chloride in India, and that imports of such products are materially injuring, or threatening material injury to, the barium chloride industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested CVD investigation.[5]

Period of Investigation

Because the Petition was filed on January 12, 2022, the period of investigation (POI) for this CVD investigation is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(2).

Scope of the Investigation

The product covered by this investigation is barium chloride from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[7] all such factual information should be limited to public information. To facilitate preparation of its questionnaire, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on February 22, 2022, which is the next business day after 20 calendar days from the signature date of this notice.[8] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[9] An electronically-filed document must be received successfully in its entirety by the time and date on which it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[10]

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI of the receipt of the Petition and provided an opportunity for consultations with respect to the Petition.[11] Commerce held consultations with the GOI on January 27, 2022.[12]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses

[5] *See* ''Determination of Industry Support for the Petitions'' section, *infra.*

[6] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[8] The deadline for comments falls on February 21, 2022, which is a federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2022). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Notice of Clarification*).

[9] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[10] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[11] *See* Commerce's Letters, ''Countervailing Duty Petition on Barium Chloride from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated January 13, 2022.

[12] *See* Memorandum, ''Countervailing Duty Petition on Barium Chloride from India: Consultations with Officials from the Government of India,'' dated January 27, 2022.

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[15] Based on our analysis of the information submitted on the record, we have determined that barium chloride, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2021.[17] The petitioner provided information from the ITC's fifth sunset review of barium chloride from the People's Republic of China, published in June 2021, in which the ITC found that Chemical Products Corporation was the only domestic producer of barium chloride; therefore, the Petition is supported by 100 percent of the U.S. industry.[18] We relied on data provided by the petitioner for purposes of measuring industry support.[19]

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[22] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[23]

Injury Test

Because India is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[24]

The petitioner contends that the industry's injured condition is illustrated by significant volume of subject imports; increasing market share of subject imports; underselling and price depression and/or suppression; inventory levels; declines in production, shipments, and revenues; and lost sales and revenues.[25] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[26]

Initiation of CVD Investigations

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of barium chloride from India benefit from countervailable subsidies conferred by the GOI. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 42 of the 43 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petition, the petitioner named 22 companies in India as producers/exporters of barium chloride.[27] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

In the event Commerce determines that the number of Indian producers or exporters is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of barium chloride from India during the POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed in the ''Scope of the Investigation,'' in the appendix.

[15] *See* General Issues Supplement at 2–3 and Exhibit GEN–3.

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Barium Chloride from India (CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

[17] *See* General Issues Supplement at 4.

[18] *See* Petition at Volume I at I–2 through I–4; *see also* General Issues Supplement at 3–4 and Exhibit GEN–3 (containing *Barium Chloride from China,* Inv. No. 731–TA–149 (Fifth Review), USITC Pub. 5203 (June 2021) at 7).

[19] *See* Petition at Volume I at I–2 through I–4; *see also* General Issues Supplement at 3–4 and Exhibit GEN–3. For further discussion, *see* Attachment II of the CVD Initiation Checklist.

[20] *See* Attachment II of the CVD Initiation Checklist; *see also* section 702(c)(4)(D) of the Act.

[21] *See* Attachment II of the CVD Initiation Checklist.

[22] *Id.*

[23] *Id.*

[24] *See* Petition at Volume I at I–10 and Exhibit I–9; *see also* General Issues Supplement at 5 and Exhibit GEN–4.

[25] *See* Petition at Volume I at I–7 through I–30 and Exhibits I–5 and I–8 through I–12; *see also* General Issues Supplement at 2–3, 5 and Exhibits GEN–2 and GEN–4.

[26] *See* CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment III).

[27] *See* Volume I of the Petition at I–7 and Exhibit I–4.

On January 26, 2022, Commerce released CBP data for U.S. imports of barium chloride from India under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.[28] Comments on CBP data and respondent selection must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, via ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.*

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOI via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of barium chloride from India are materially injuring, or threatening material injury to, a U.S. industry.[29] A negative ITC determination will result in the investigation being terminated.[30] Otherwise, this CVD investigation will proceed according to the statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[31] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[32] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in this investigation.[33]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[34] Parties must use the certification formats provided in 19 CFR 351.303(g).[35] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas $BaCl_2$ or $BaCl_2$-$2H_2O$, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

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[28] *See* Memorandum, ''Countervailing Duty and Antidumping Duty Petitions on Granular Polytetrafluoroethylene Resin from India: Release of Customs Data from U.S. Customs and Border Protection,'' dated February 12, 2021.

[29] *See* section 703(a) of the Act.

[30] *Id.*

[31] *See* 19 CFR 351.301(b).

[32] *See* 19 CFR 351.301(b)(2).

[33] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[34] *See* section 782(b) of the Act.

[35] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967]

Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that sales of aluminum extrusions from the People's Republic of China (China) were made at less than normal value (NV) during the period of review (POR) May 1, 2019, through April 30, 2020.

DATES: Applicable February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Mark Flessner, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6312.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2021, Commerce published the *Preliminary Results* and invited interested parties to comment.[1] These final results cover 87 companies for which an administrative review was initiated and not rescinded. On September 7, 2021, the following parties submitted case briefs: (1) Kingtom Aluminio S.R.L. (Kingtom);[2] (2) Global Aluminum Distributor, LLC;[3] and (3) JL Trading Corp., Puertas Y Ventanas JM Inc., and Industrias Feliciano Al Inc.[4] Additionally, on September 7, 2021, Hialeah Aluminum Supply, Inc. and Classic Metals Suppliers Corp. filed a letter in lieu of a case brief.[5] On September 16, 2021, the Aluminum Extrusions Fair Trade Committee (the petitioner) submitted a rebuttal brief.[6] On November 17, 2021, Commerce extended the deadline for these final results until February 2, 2022.[7] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

A complete summary of the events that occurred since publication of the *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, may be found in the Issues and Decision Memorandum.[8] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order[9]

The merchandise covered by the *Order* is aluminum extrusions, which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and that we addressed in the Issues and Decision Memorandum follows as an appendix to this notice.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made no changes for these final results.

Separate Rates

In the *Preliminary Results,* we determined that none of the companies for which an administrative review was requested, and not withdrawn, was entitled to a separate rate. We therefore preliminarily determined that 85 companies listed in Appendix III of the *Preliminary Results* were not eligible for a separate rate in this administrative review.[10] For these final results of review, we have made no changes to our preliminary separate rate analysis[11] and continue to find that the 85 companies listed in Appendix II of this notice are not eligible for a separate rate in this administrative review.

China-Wide Entity

We continue to determine for these final results that the 85 companies listed in Appendix II are part of the China-wide entity in this administrative review.[12]

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[13] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in the instant review, and because Commerce did not self-initiate such a review, the entity is not under review, and the entity's current rate (*i.e.,* 86.01 percent)[14] is not subject to change.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that Anderson International and Sunvast Trade Shanghai did not have shipments of subject merchandise to the United States during the POR.[15] As we received no information to contradict our preliminary determination of no shipments with

[1] *See Aluminum Extrusions from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review, in Part; 2019–2020,* 86 FR 43168 (August 6, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Kingtom's Letter, ''Case Brief of Kingtom Aluminio S.R.L.,'' dated September 7, 2021.

[3] *See* Global Aluminum Distributor, LLC's Letter, ''Aluminum Extrusions from the People's Republic of China; A–570–967; Case Brief,'' dated September 7, 2021.

[4] *See* JL Trading Corp., Puertas Y Ventanas JM Inc., and Industrias Feliciano Al Inc.'s Letter, ''Aluminum Extrusions from the People's Republic of China: Case Brief,'' dated September 7, 2021.

[5] *See* Hialeah Aluminum Supply, Inc. and Classic Metals Suppliers Corp.'s Letter, ''Aluminum Extrusions from China; Letter in Lieu of Case Brief,'' dated September 7, 2021.

[6] *See* Petitioner's Letter, ''Aluminum Extrusions from the People's Republic of China: Rebuttal Brief,'' dated September 16, 2021.

[7] *See* Memorandum, ''Aluminum Extrusions from the People's Republic of China, 2019–2020: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated November 17, 2021.

[8] *See* Memorandum, ''Issues and Decisions Memorandum for the Final Results of the Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[9] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) (*Order*).

[10] *See Preliminary Results,* 86 FR 43171, and PDM at 15–17.

[11] *Id.*

[12] *See* Issues and Decision Memorandum.

[13] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013).

[14] *See Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 56164, 56165 (October 21, 2019).

[15] *See Preliminary Results* PDM at 11.

respect to these two companies, we continue to find that they made no shipments of subject merchandise to the United States during the POR. Accordingly, we will issue appropriate instructions for these two companies that are consistent with our ''automatic assessment'' clarification.[16]

Adjustments for Countervailable Subsidies

Because no company established eligibility for an adjustment under section 777A(f) of the Act for countervailable domestic subsidies, for these final results, Commerce did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for separate-rate recipients. Furthermore, because the China-wide entity is not under review, we made no adjustment for countervailable export subsidies for the China-wide entity pursuant to section 772(c)(1)(C) of the Act.

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Consistent with its recent notice,[17] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication). These final results of review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable. Consistent with Commerce's assessment practice in non-market economy cases, where we have determined that an exporter under review had no shipments of subject merchandise, any suspended entries that entered under the exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the China-wide rate.[18]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most-recently completed segment of this proceeding in which the exporter was reviewed; (2) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be that established for the China-wide entity (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter (or, if unidentified, that of the China-wide entity); and (4) for the China-wide entity, the cash deposit rate will be 86.01 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction or return of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the destruction or return of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Issues
  Comment 1: Enforce and Protect Act (EAPA) Determinations and Due Process
  Comment 2: Separate Rate
V. Recommendation

Appendix II—Companies Not Entitled to a Separate Rate

1. Allpower Display Co., Ltd
2. Amidi Zhuhai
3. Beauty Sky Technology Co. Ltd
4. Changshu Changsheng Aluminum Products Co., Ltd
5. Chenming Industry and Commerce Shouguang Co., Ltd.
6. China International Freight Co. Ltd
7. China State Decoration Group Co., Ltd.
8. CRRC Changzhou Auto Parts Co. Ltd *
9. Custom Accessories Asia Ltd.
10. Everfoison Industry Ltd.
11. Foshan City Fangyuan Ceramic
12. Foshan City Nanhai Yongfeng Aluminum
13. Foshan City Top Deal Import and Export Co., Ltd.
14. Foshan Gold Bridge Import and Export Co. Ltd.
15. Foshan Golden Promise Import and Export Co., Ltd.
16. Foshan Guangshou Import and Export Co., Ltd.
17. Foshan Xingtao Aluminum Profile Co., Ltd.
18. Fujian Minfa Aluminum Inc.
19. Fujian Minfa Aluminum Co., Ltd.
20. Fuzhou Ruifuchang Trading Co., Ltd.
21. Fuzhou Sunmodo New Energy Equipment Co., Ltd.
22. Gebruder Weiss
23. Gold Bridge International
24. Grupo Emb
25. Grupo Europeo La Optica
26. Grupo Pe No Mato In
27. Guangdong Gaoming Guangtai Shicai
28. Guangdong Gaoxin Communication Equipment Industrial Co., Ltd.
29. Guangdong Golden China Economy
30. Guangdong Maoming Foreign Trade Enterprise Development Co.
31. Guangdong Taiming Metal Products Co., LTD.
32. Guangdong Victor Aluminum Co., Ltd.
33. Guangzhou Jintao Trade Company
34. Hangzhou Evernew Machinery &

[16] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment Notice*); *see also* ''Assessment'' section, below.

[17] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

[18] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Equipment Co., Ltd.
35. Hangzhou Tonny Electric and Tools Co., Ltd.
36. Hefei Sylux Imp. & Exp. Co., Ltd.
37. Hong Kong Dayo Company, Ltd.
38. Huazhijie Plastic Products
39. Huiqiao International Shanghai
40. Ilshim Almax
41. Jer Education Technology
42. Jiangsu Weatherford Hongda Petroleum Equipment Co., Ltd.
43. Jiangsu Yizheng Haitian Aluminum Industrial
44. Jiang Yin Ming Ding Aluminum & Plastic Products Co., Ltd
45. Jilin Qixing Aluminum Industries Co., Ltd.
46. Jin Lingfeng Plastic Electrical Appliance
47. Kanal Precision Aluminum Product Co. Ltd.
48. Kingtom Aluminio SRL
49. Larkcop International Co Ltd
50. Ledluz Co Ltd
51. Liansu Group Co. Ltd
52. Links Relocations Beijing
53. Marshell International
54. Ningbo Deye Inverter Technology
55. Ningbo Hightech Development
56. Ningbo Winjoy International Trading
57. Orient Express Container
58. Ou Chuang Plastic Building Material (Zhejiang) Co., Ltd.
59. Pentagon Freight Service
60. Pro Fixture Hong Kong
61. Qingdao Sea Nova Building
62. Qingdao Yahe Imports and Exports
63. Sewon
64. Shandong Huajian Aluminum Industry
65. Shanghai EverSkill M&E Co., Ltd.
66. Shanghai Jingxin Logistics
67. Shanghai Ouma Crafts Co, Ltd.
68. Shanghai Phidix Trading
69. Sinogar Aluminum
70. Transwell Logistics Co., Ltd.
71. United Aluminum
72. Wanhui Industrial China
73. Wenzhou Yongtai Electric Co., Ltd.
74. Winstar Power Technology Limited
75. Wisechain Trading Ltd.
76. Wuxi Lotus Essence
77. Wuxi Rapid Scaffolding Engineering
78. Wuxi Zontai Int'l Corporation Ltd.
79. Xuancheng Huilv Aluminum Industry Co., Ltd.
80. Yekalon Industry Inc
81. Yonn Yuu Enterprise Co., Ltd.
82. Yuyao Royal Industrial
83. Zhejiang Guoyao Aluminum Co., Ltd.
84. Zhongshan Broad Windows and Doors and Curtain
85. ZL Trade Shanghai

[FR Doc. 2022–02639 Filed 2–7–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–908]

Barium Chloride From India: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 1, 2022.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Preston Cox; AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2924 or (202) 482–5041, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On January 12, 2022, the Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of barium chloride from India, filed in proper form on behalf of Chemical Products Corporation (the petitioner), a domestic producer of barium chloride.[1] The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of barium chloride from India.[2]

On January 14 and 24, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.[3] The petitioner filed responses to these requests on January 19, 20, and 25, 2022.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of barium chloride from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the barium chloride industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.[5]

Period of Investigation

Because the Petition was filed on January 12, 2022, the period of investigation (POI) for this AD investigation is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(1).

Scope of the Investigation

The product covered by this investigation is barium chloride from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[7] all such factual information should be limited to public information. To facilitate preparation of its questionnaire, Commerce requests that all interested parties submit scope comments by 5:00

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Barium Chloride from India,'' dated January 12, 2022 (the Petition).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Barium Chloride from India: Supplemental Questions,'' dated January 14, 2022; and ''Petition for the Imposition of Antidumping Duties on Imports of Barium Chloride from India: Supplemental Questions,'' dated January 14, 2022; *see also* Commerce's Memoranda, ''Petition for the Imposition of Antidumping Duties on Imports of Barium Chloride from India: Phone Call with Counsel to the Petitioner,'' dated January 24, 2022; and ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Barium Chloride from India: Phone Call with Counsel to the Petitioner,'' dated January 24, 2022.

[4] *See* Petitioner's Letters, ''Barium Chloride from India: Response to Supplemental Questionnaire on Volume I of Petition (General Issues and Injury Information),'' dated January 19, 2022 (General Issues Supplement); ''Barium Chloride from India: Response to Supplemental Questionnaire on Volume II (AD) of Petition,'' dated January 20, 2022 (India AD Supplement); ''Barium Chloride from India: Response to Supplemental Question on Volume I of Petition (General Issues and Injury Information),'' dated January 25, 2022 (Revised Exhibit I–4); and ''Barium Chloride from India: Response to Supplemental Question on Volume II of Petition (Antidumping Duties),'' dated January 25, 2022 (Second India AD Supplement).

[5] *See infra,* section on ''Determination of Industry Support for the Petition.''

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

p.m. Eastern Time (ET) on February 22, 2022, which is the next business day after 20 calendar days from the signature date of this notice.[8] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[9] An electronically-filed document must be received successfully in its entirety by the time and date on which it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[10]

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of barium chloride to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe barium chloride, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on February 22, 2022, which is the next business day after 20 calendar days from the signature date of this notice.[11] Any rebuttal comments must be filed by 5:00 p.m. ET on March 4, 2022, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[14] Based on our analysis of the information submitted on the record, we have determined that barium chloride, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry

[8] The deadline for comments falls on February 21, 2022, which is a federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2022). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Notice of Clarification*).

[9] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[10] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[11] The deadline for comments falls on February 21, 2022, which is a federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2022). *See Notice of Clarification.*

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] *See* General Issues Supplement at 2–3 and Exhibit GEN–3.

support in terms of that domestic like product.[15]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2021.[16] The petitioner provided information from the ITC's fifth sunset review of barium chloride from the People's Republic of China, published in June 2021, in which the ITC found that Chemical Products Corporation was the only domestic producer of barium chloride; therefore, the Petition is supported by 100 percent of the U.S. industry.[17] We relied on data provided by the petitioner for purposes of measuring industry support.[18]

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[19] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[20] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[21] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[22]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[23]

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; increasing market share of subject imports; underselling and price depression and/or suppression; inventory levels; declines in production, shipments, and revenues; and lost sales and revenues.[24] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[25]

Allegation of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate this LTFV investigation of imports of barium chloride from India. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on the average unit value (AUV) of publicly available import data for barium chloride from India during the POI and made adjustments for foreign inland freight and foreign brokerage and handling to calculate a net ex-factory U.S. price.[26]

Normal Value

The petitioner provided information indicating that the prices for barium chloride sold or offered for sale in India were below the cost of production (COP). Consequently, the petitioner based NV on constructed value (CV).[27] For further discussion of CV, *see* ''Normal Value Based on Constructed Value'' section below.[28]

Normal Value Based on Constructed Value

As noted above, the petitioner provided information indicating that sales or offers for sale of barium chloride in India were made at prices below COP. Therefore, the petitioner calculated NV based on CV.[29] Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing; selling, general, and administrative expenses; financial expenses; and profit.[30]

Fair Value Comparison

Based on the data provided by the petitioner, there is reason to believe that imports of barium chloride from India are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV based on CV in accordance with section 773 of the Act, the estimated dumping margin for barium chloride from India is 233.34 percent.[31]

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating this LTFV investigation to determine whether imports of barium chloride from India are being, or are likely to be, sold in the United States at LTFV. In accordance with section

[15] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Barium Chloride from India (AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

[16] *See* General Issues Supplement at 4.

[17] *See* Petition at Volume I at I–2 through I–4; *see also* General Issues Supplement at 3–4 and Exhibit GEN–3 (containing *Barium Chloride from China,* Inv. No. 731–TA–149 (Fifth Review), USITC Pub. 5203 (June 2021) at 7).

[18] *See* Petition at Volume I at I–2 through I–4; *see also* General Issues Supplement at 3–4 and Exhibit GEN–3. For further discussion, *see* AD Initiation Checklist at Attachment II.

[19] *See* AD Initiation Checklist at Attachment II; *see also* section 732(c)(4)(D) of the Act.

[20] *See* AD Initiation Checklist at Attachment II.

[21] *Id.*

[22] *Id.*

[23] *See* Petition at Volume I at I–10 and Exhibit I–9; *see also* General Issues Supplement at 5 and Exhibit GEN–4.

[24] *See* Petition at Volume I at I–7 through I–30 and Exhibits I–5 and I–8 through I–12; *see also* General Issues Supplement at 2–3, 5 and Exhibits GEN–2 and GEN–4.

[25] *See* AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment III).

[26] *See* AD Initiation Checklist.

[27] *See* AD Initiation Checklist.

[28] In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[29] *See* AD Initiation Checklist.

[30] *Id.*

[31] *See* AD Initiation Checklist for details of this margin calculation.

733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioner named 22 companies in India as producers and/or exporters of barium chloride.[32] Following standard practice in AD investigations involving a market economy country, in the event Commerce determines that the number of Indian exporters or producers is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of barium chloride from India during the POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed in the ''Scope of the Investigation,'' in the appendix.

On January 26, 2022, Commerce released CBP data on U.S. imports of barium chloride from India under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.[33] Comments on CBP data and respondent selection must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, via ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.*

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of India via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of barium chloride from India are materially injuring, or threatening material injury to, a U.S. industry.[34] A negative ITC determination will result in the investigation being terminated.[35] Otherwise, this AD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[36] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[37] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to

[32] *See* Revised Exhibit I–4.

[33] *See* Memorandum, ''Antidumping Duty Petition on Imports of Barium Chloride from India: Release of U.S. Customs and Border Protection Data,'' dated January 26, 2022.

[34] *See* section 733(a) of the Act.

[35] *Id.*

[36] *See* 19 CFR 351.301(b).

[37] *See* 19 CFR 351.301(b)(2).

submitting factual information in this investigation.[38]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[39] Parties must use the certification formats provided in 19 CFR 351.303(g).[40] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letter of appearance).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas $BaCl_2$ or $BaCl_2$-$2H_2O$, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2022–02558 Filed 2–7–22; 8:45 am]

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[38] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[39] *See* section 782(b) of the Act.

[40] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–985]

Xanthan Gum From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that except for one respondent for which Commerce calculated a zero percent dumping margin, the other companies subject to this administrative review either made sales of subject merchandise at prices below normal value (NV) during the period of review (POR) July 1, 2019, through June 30, 2020, did not ship subject merchandise to the United States during the POR, or were not entitled to a separate rate.

DATES: Applicable February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Abdul Alnoor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4554.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2021, Commerce published the *Preliminary Results* and invited interested parties to comment.[1] For details regarding the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [3]

The scope of the *Order* covers dry xanthan gum, whether or not coated or blended with other products. For a full description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that Shanghai Smart Chemicals Co., Ltd. did not have shipments of subject merchandise during the POR. As we received no information to contradict our preliminary determination with respect to this company, we continue to find that it made no shipments of subject merchandise to the United States during the POR.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we corrected certain ministerial errors in the calculation of Fufeng's,[4] one of the mandatory respondents, weighted-average dumping margin. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Separate Rates

No parties commented on our preliminary separate rate findings. Therefore, we have continued to grant Meihua [5] and Fufeng (the mandatory respondents), and two other companies/company groups listed in the ''Final Results of Review'' section below separate rate status. However, we have continued to deny separate rate status to

[1] *See Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, Partial Rescission of the Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2019–2020,* 86 FR 42781 (August 5, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum ''Issues and Decision Memorandum for the Final Results of the 2019–2020 Antidumping Duty Administrative Review of Xanthan Gum from the People's Republic of China,'' (Issues and Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

[3] *See Xanthan Gum from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 43143 (July 19, 2013) (*Order*).

[4] Fufeng refers to a single entity, which includes: Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.); Shandong Fufeng Fermentation Co., Ltd.; and Xinjiang Fufeng Biotechnologies Co., Ltd. (collectively, Fufeng).

[5] Meihua refers to a single entity, which includes: Meihua Group International Trading (Hong Kong) Limited; Langfang Meihua Biotechnology Co., Ltd.; and Xinjiang Meihua Amino Acid Co., Ltd. (collectively, Meihua).

A.H.A. International Co., Ltd., Hebei Xinhe Biochemical Co., Ltd., Greenhealth International Co., Ltd. (Hong Kong), and Nanotech Solutions SDN BHD.

Rate for Non-Examined Separate Rate Respondents

The statute and Commerce's regulations do not address what rate to apply to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available. When the rates for individually examined companies are all zero, *de minimis,* or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use ''any reasonable method'' to establish the all others rate.

We calculated a zero percent dumping margin for one of the mandatory respondents in this review, Fufeng, and we based the other mandatory respondent, Meihua's, dumping margin on total AFA. Therefore, we assigned the separate rate respondents a dumping margin equal to the simple average of the dumping margins for Fufeng and Meihua, consistent with the guidance in section 735(c)(5)(B) of the Act.[6]

Final Results of Review

We are assigning the following dumping margins to the firms listed below for the period July 1, 2019, through June 30, 2020:

Exporter	Weighted-average dumping margins (percentage)
Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Biotechnology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd	154.07
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd	0.00
Review-Specific Average Rate Applicable to the Following Companies:	
Jianlong Biotechnology Co., Ltd. (formerly, Inner Mongolia Jianlong Biochemical Co., Ltd)	77.04
Deosen Biochemical (Ordos) Ltd./Deosen Biochemical Ltd	77.04

Disclosure

Pursuant to 19 CFR 351.224(b), within five days of the publication this **Federal Register** notice, we will disclose to the parties to this proceeding, the calculations that we performed for these final results of review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by the final results of this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication date of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Where the respondent's weighted-average dumping margin is zero or *de minimis,* or where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[7] For entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), Commerce will instruct CBP to liquidate such entries at the China-wide rate (*i.e.,* 154.07 percent).[8]

For any individually-examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales, in accordance with 19 CFR 351.212(b)(1).[9]

For respondents not individually examined in this administrative review that qualified for a separate rate, the assessment rate will be equal to the simple average of the dumping margins assigned to the mandatory respondents in the final results of this review.

For the respondents not eligible for a separate rate and that are part of the China-wide entity, we intend to instruct CBP to apply an *ad valorem* assessment rate of 154.07 percent (*i.e.,* the China-wide entity rate) to all entries of subject merchandise during the POR that were exported by these companies.

Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the China-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed in the table above, the cash deposit rate will be the rate established in the final results of review that is listed for the exporter in the table; (2) for previously investigated or reviewed China and non-China exporters not listed in the table above

[6] *See* Issues and Decision Memorandum for the discussion of this issue.

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[8] *See Order,* 78 FR at 43144.

[9] *Id.*

that have separate rates, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity, which is 154.07 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing these final results of administrative review and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: January 31, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results
V. Discussion of Issues
Comment 1: The Separate Rate
Comment 2: No Shipments for Deosen Biochemical Ltd.
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Comment 4: Total Adverse Facts Available (AFA) for Meihua
VI. Recommendation

[FR Doc. 2022–02557 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–856]

Certain Corrosion-Resistant Steel Products From Taiwan: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) July 1, 2019, through June 30, 2020. We further determine that Synn Co., Ltd. (Synn) had no shipments of subject merchandise during the POR.

DATES: Applicable February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Kate Sliney or Matthew Palmer, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2437 or (202) 482–1678, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2021, Commerce published the *Preliminary Results* for this administrative review.[1] We invited interested parties to comment on the *Preliminary Results.* This review covers two mandatory respondents: Prosperity Tieh Enterprise Co., Ltd. (Prosperity) and Yieh Phui Enterprise Co., Ltd. (Yieh Phui).[2] We received case briefs from AK Steel Corporation, California Steel Industries, and Steel Dynamics, Inc. (collectively, the petitioners), Yieh Phui, and Prosperity.[3] We received rebuttal briefs from Yieh Phui and the petitioners.[4] On November 19, 2021, we extended the deadline for the final results of this review to February 2, 2022.[5] A complete summary of the events that occurred since publication of the *Preliminary Results* is found in

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[1] *See Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Duty Administrative Review and Preliminary* Determination of No Shipments; 2019–2020, 86 FR 43185 (August 6, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] In the less-than-fair-value (LTFV) investigation of the AD order, we collapsed Prosperity, Yieh Phui, and Synn and treated them as a single entity. *See Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 81 FR 35313 (June 2, 2016), and accompanying Issues and Decision Memorandum at Comment 3 (*Taiwan CORE LTFV Final*), unchanged in *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 82 FR 48390 (July 25, 2016) (*Order*). In the first administrative review, we determined to no longer collapse Prosperity with YP and Synn, but we continued to collapse YP and Synn and treated them as a single entity. *See Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 39679 (August 10, 2018), unchanged in *Certain Corrosion-Resistant Steel Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 64527 (December 17, 2018), amended by *Certain Corrosion-Resistant Steel Products from Taiwan: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017,* 84 FR 5991 (February 25, 2019). We selected the YP/Synn entity as a single combined respondent and treated it as such in the pre-preliminary phase of this review. Subsequently, in the immediately preceding administrative review of this case, we determined that YP and Synn should no longer be collapsed. *See Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 85 FR 74669 (November 23, 2020), unchanged in *Certain Corrosion-Resistant Steel Products from Taiwan: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 28554 (May 27, 2021). As the instant record mirrors that of the preceding review with respect to this issue, and we have received no comments contesting the determination not to collapse the YP/Synn entity, we continue to determine that YP and Synn should not be collapsed in this review.

[3] *See* Petitioners' Letter, ''Certain Corrosion-Resistant Steel Products from Taiwan: Petitioners' Case Brief'' dated December 8, 2021 (Petitioners' Case Brief); Yieh Phui's Letter, ''Corrosion-Resistant Steel Products from Taiwan; Case Brief,'' dated December 8, 2021 (Yieh Phui's Case Brief); and Prosperity's Letter, ''Certain Corrosion-Resistant Steel Products from Taiwan, Case No. A–583- 856: Prosperity Tieh's Case Brief,'' dated December 8, 2021 (Prosperity's Case Brief).

[4] S*ee* Yieh Phui's Letter, ''Corrosion-Resistant Steel Products from Taiwan; Rebuttal Brief,'' dated December 15, 2021; *see also* Petitioners' Letter, ''Certain Corrosion-Resistant Steel Products from Taiwan: Petitioners' Rebuttal Brief,'' dated December 15, 2021 (Petitioners' Rebuttal Brief).

[5] *See* Memorandum, ''Certain Corrosion-Resistant Steel Products from Taiwan: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review, 2019–2020,'' dated November 19, 2021.

the Issues and Decision Memorandum.[6] Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the *Order* is flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000. The products subject to the orders may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.[7]

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the Issues and Decision Memorandum.[8] A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and analysis of the comments received from interested parties, we made no changes to the preliminary weighted-average margin calculation for Prosperity, and we made two changes to the preliminary weighted-average margin calculation for Yieh Phui. For detailed information, *see* the Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Synn made no shipments of subject merchandise during the POR.[9] As we have not received any information to contradict this determination, nor comment in opposition to our preliminary finding, we continue to determine that Synn made no shipments of subject merchandise during the POR. Consistent with our practice, we will instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of subject merchandise produced by Synn, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.

Rate for Respondent Not Selected for Individual Examination

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 735(c)(5)(A) of the Act establishes a preference to avoid using rates which are zero, *de minimis,* or based entirely on facts available (FA) in calculating an all others rate. Accordingly, Commerce's practice in administrative reviews has been to average the weighted-average dumping margins for the companies selected for individual examination in the administrative review, excluding rates that are zero, *de minimis,* or based entirely on FA.[10] For these final results of review, we calculated a weighted-average dumping margin for both mandatory respondents which is not zero, *de minimis,* or determined entirely on the basis of FA.[11] Accordingly, Commerce assigns to the company not examined in this review (*i.e.,* Sheng Yu Steel Co., Ltd.) a dumping margin of 3.10 percent, which is the weighted average of the dumping margins calculated using the public ranged sales data of Prosperity and Yieh Phui.

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the respondents for the period July 1, 2019, through June 30, 2020:

Exporter/producer	Weighted-average dumping margin (percent)
Prosperity Tieh Enterprise Co., Ltd	3.63
Sheng Yu Steel Co., Ltd	3.10
Yieh Phui Enterprise Co., Ltd	2.05

Disclosure

We intend to disclose to interested parties the calculations and analysis performed for these final results within five days of the date of the publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2019–2020 Antidumping Duty Administrative Review: Certain Corrosion-Resistant Steel Products from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] For the full text of the scope of the *Order, see* the Issues and Decision Memorandum.

[8] *See* Issues and Decision Memorandum.

[9] *See Preliminary Results,* 86 FR 43185–86.

[10] *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

[11] In the case of two mandatory respondents, our practice is to calculate: (A) A weighted average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted average of the dumping margins calculated for the mandatory respondents using each company's publicly ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2014–2016,* 82 FR 31555, 31556 (July 7, 2017). We have applied that practice here. *See* Memorandum, ''2019–2020 Antidumping Duty Administrative Review of Certain Corrosion-Resistant Steel Products from Taiwan: Calculation of All-Others' Rate in Final Results,'' dated concurrently with this notice.

appropriate entries of subject merchandise in accordance with the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[12] For entries of subject merchandise during the POR produced by the mandatory respondents for which they did not know their merchandise was destined for the United States, or for entries associated with Synn, who had no shipments during the POR, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[13]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer has been covered in a prior complete segment of this proceeding, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.66 percent,[14] the all-others rate from the *Amended Final Determination.* These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issues
  Comment 1: Whether Yieh Phui's Reported Cost Information is Reliable and Whether an Adverse Inference or Adjustment is Appropriate
  Comment 2: Whether To Modify the Transfer Price Cost Adjustment for Inputs Sourced From Yieh Phui's Affiliated Suppliers
  Comment 3: Whether To Include Various Income Items as Allowable Offsets in the Calculation of Yieh Phui's General and Administrative Expense Ratio
  Comment 4: Treatment of Section 232 Duties
VI. Recommendation

[FR Doc. 2022–02640 Filed 2–7–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–907, C–821–837]

Sodium Nitrite From India and the Russian Federation: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 2, 2022.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett at (202) 482–3609, Eva Kim at (202) 482–8283, and Thomas Martin at (202) 482–3936 (India), and Melissa Kinter at (202) 482–1413 (the Russian Federation (Russia)), AD/CVD Operations, Offices IV and II, respectively, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 13, 2022, the Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of sodium nitrite from India and Russia, filed in proper form on behalf of Chemtrade Chemicals US, LLC (the petitioner), a domestic producer of sodium nitrite.[1] The

[12] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[13] *See* section 751(a)(2)(C) of the Act.

[14] *See Corrosion-Resistant Steel Products from Taiwan: Notice of Court Decision Not in Harmony with Final Determination of Antidumping Duty Investigation and Notice of Amended Final Determination of Investigation,* 84 FR 6129 (February 26, 2019) (*Amended Final Determination*).

[1] *See* Petitioner's Letter, ''Sodium Nitrite from India and Russia: Antidumping and Countervailing

Petitions were accompanied by antidumping duty (AD) petitions concerning imports of sodium nitrite from India and Russia.[2]

Between January 18 and 27, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires and telephone calls.[3] The petitioner filed responses to these requests on January 20, 21, 24, and 26, 2022.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) and the Government of Russia (GOR) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of sodium nitrite in India and Russia, and that imports of such products are materially injuring, or threatening material injury to, the sodium nitrite industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested CVD investigations.[5]

Periods of Investigation

Because the Petitions were filed on January 13, 2022, the period of investigation (POI) for these CVD investigations is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(2).

Scope of the Investigations

The product covered by these investigations is sodium nitrite from India and Russia. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on Scope of the Investigations

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[7] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on February 22, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of these investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[8] An electronically-filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[9]

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI and the GOR of the receipt of the Petitions and provided an opportunity for consultations with respect to the Petitions.[10] Commerce held consultations with the GOI and the GOR on January 28, 2022.[11] On February 1, 2022, the GOI submitted pre-initiation consultation comments.[12]

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A)

Duty Petitions,'' dated January 13, 2022 (the Petitions).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India: Supplemental Questions,'' dated January 18, 2022; ''Petition for the Imposition of Countervailing Duties on Imports of Sodium Nitrite from the Russian Federation: Supplemental Questions,'' dated January 18, 2022; ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and the Russian Federation: Supplemental Questions,'' dated January 19, 2022; and ''Petition for the Imposition of Countervailing Duties on Imports of Sodium Nitrite from India: Second Supplemental Questions,'' dated January 24, 2022; *see also* Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and the Russian Federation: Phone Call with Counsel to the Petitioner,'' dated January 27, 2022.

[4] *See* Petitioner's Letters, ''Sodium Nitrite from India: Responses to Supplemental Questions Regarding the Countervailing Duty Petition,'' dated January 20, 2022; ''Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and Russia: Supplemental Questionnaire Responses to Petition General Issues,'' dated January 21, 2022 (General Issues Supplement); ''Sodium Nitrite from India and Russia: Errata to Supplemental Questionnaire Responses to Petition General Issues,'' dated January 24, 2022 (General Issues Errata); ''Petition for the Imposition of Countervailing Duties on Imports of Sodium Nitrite from Russia: Responses to Supplemental Questions Regarding the Countervailing Duty Petition,'' dated January 21, 2022; ''Sodium Nitrite from India: Responses to Second Supplemental Questions Regarding the Countervailing Duty Petition,'' dated January 26, 2022; and ''Sodium Nitrite from India and Russia: Second Supplemental Questionnaire Response to Petition General Issues,'' dated January 27, 2022 (Second General Issues Supplement).

[5] *See* ''Determination of Industry Support for the Petitions'' section, *infra.*

[6] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information.'').

[8] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[10] *See* Commerce's Letters, ''Petition for the Imposition of Countervailing Duty Petition on Imports of Certain Sodium Nitrite from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated January 18, 2022; and ''Sodium Nitrite from the Russian Federation: Invitation for Consultation to Discuss the Countervailing Duty Petition,'' dated January 14, 2022.

[11] *See* Memoranda, ''Countervailing Duty Petition on Sodium Nitrite from India: Consultations with Officials from the Government of India,'' dated January 28, 2022; and ''Countervailing Duty Petition on Sodium Nitrite from the Russian Federation: Consultations with Officials from the Government of the Russian Federation,'' dated January 31, 2022.

[12] *See* GOI's Letter, ''Pre-Initiation Consultation Note on the Petition for Initiation of Countervailing Duty Investigation concerning imports of Certain Sodium Nitrite from India (Case No. 533–907),'' dated February 1, 2022.

of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[15] Based on our analysis of the information submitted on the record, we have determined that sodium nitrite, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided its own total production of sodium nitrite during the calendar year 2021.[17] The petitioner also provided an estimate of the 2021 production for the only other known U.S. producer of sodium nitrite, SABIC Innovative Chemicals US, LLC.[18] The petitioner then compared its own production to the total volume of sodium nitrite produced by the U.S. industry.[19] We relied on data provided by the petitioner for purposes of measuring industry support.[20]

Our review of the data provided in the Petitions, the General Issues Supplement, General Issues Errata, Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions. First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[21] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[22] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[23] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[24]

Injury Test

Because India and Russia are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India and/or Russia materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[25]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and suppression; lost sales and revenues; declines in production, shipments, capacity utilization, and employment; and decline in sales revenues and negative

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

[15] *See* Petitions at Volume I at 10–15.

[16] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Country-Specific CVD Initiation Checklists, ''Countervailing Duty Investigation Initiation Checklists: Sodium Nitrite from India and the Russian Federation,'' dated concurrently with this **Federal Register** notice and on file electronically via ACCESS (Country-Specific CVD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Sodium Nitrite from India and the Russian Federation (Attachment II).

[17] *See* Petitions at Volume I at 3; *see also* General Issues Supplement at 3–4; General Issues Errata at 1.

[18] *See* Petitions at Volume I at 3 and Exhibit I–1; *see also* General Issues Supplement at 3–4 and Exhibit I–25; General Issues Errata at 1; and Second General Issues Supplement at 1 and Exhibit I–28.

[19] *See* General Issues Supplement at 4; *see also* General Issues Errata at 1.

[20] *See* Petitions at Volume I at 3 and Exhibit I–1; *see also* General Issues Supplement at 3–4 and Exhibit I–25; General Issues Errata at 1; and Second General Issues Supplement at 1 and Exhibit I–28. For further discussion, *see* Attachment II of the Country-Specific CVD Initiation Checklists.

[21] *See* Country-Specific CVD Initiation Checklists at Attachment II; *see also* section 702(c)(4)(D) of the Act.

[22] *See* Country-Specific CVD Initiation Checklists at Attachment II.

[23] *Id.*

[24] *Id.*

[25] *See* Petitions at Volume I at 15 and Exhibit I–7; *see also* General Issues Supplement at 4 and Exhibit I–26; General Issues Errata at 1–2 and Exhibit I–26.

impact on operating profits.[26] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

Initiation of CVD Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of sodium nitrite from India and Russia benefit from countervailable subsidies conferred by the GOI and the GOR, respectively. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

India

Based on our review of the CVD Petition on sodium nitrite from India, we find that there is sufficient information to initiate a CVD investigation on all 21 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Russia

Based on our review of the CVD Petition on sodium nitrite from Russia, we find that there is sufficient information to initiate a CVD investigation on ten of the 11 alleged programs. For a full discussion of the basis for our decision to initiate on ten of the programs and to not initiate on one program, *see* the Russia CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petitions, the petitioner identified four companies in India and one company in Russia as producers/exporters of sodium nitrite.[28] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

India

In the event Commerce determines that the number of Indian producers/exporters is large and it cannot individually examine each company based upon Commerce's resources,[29] Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of sodium nitrite from India during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigations,'' in the appendix.

On January 25, 2022, Commerce released CBP data for U.S. imports of sodium nitrite from India under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.[30] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://enforcement.trade.gov/apo.*

Russia

In the Petition, the petitioner named only one company as a producer/exporter of sodium nitrite in Russia, UralChem, JSC.[31] Furthermore, we placed CBP import data onto the record of this proceeding, which corroborates the existence of UralChem, JSC as the sole producer/exporter in the foreign market,[32] and we currently know of no additional producers/exporters of subject merchandise from Russia. Accordingly, Commerce intends to examine all known producers/exporters in this investigation (*i.e.,* the company referenced above). As noted in the aforementioned Russia CBP Import Data Release Memo, we invite interested parties to comment on this issue within three days of publication of this notice in the **Federal Register**. Commerce will not accept rebuttal comments regarding respondent selection for Russia. Because we intend to examine all known producers/exporters, if no comments are received or if comments received further support the existence of this sole producer/exporter in Russia, we do not intend to conduct respondent selection and will proceed to issuing the initial countervailing duty questionnaire to the company identified. However, if comments are received that create a need for a respondent selection process, we intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://enforcement.trade.gov/apo.*

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI and GOR via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that subject imports are materially injuring, or threatening material injury to, a U.S. industry.[33] A negative ITC determination for any country will result in the investigation being terminated with respect to that

[26] *See* Petitions at Volume I at 15–34 and Exhibits I–5, I–7, I–9 through I–15, and I–18; *see also* General Issues Supplement at 4–7 and Exhibits I–22 through I–24 and I–27.

[27] *See* Country-Specific CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Sodium Nitrite from India and the Russian Federation (Attachment III).

[28] *See* Volume I of the Petitions at 9–10 and Exhibit I–6.

[29] *See* section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2).

[30] *See* Memorandum, ''Countervailing Duty Petition on Imports of Sodium Nitrite from India: Release of U.S. Customs and Border Protection Data,'' dated January 25, 2022.

[31] *See* Volume I of the Petitions at 10 and Exhibits I–6, I–10, and I–17; *see also* General Issues Supplement at 2–3.

[32] *See* Memorandum, ''Sodium Nitrite from the Russian Federation Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated January 28, 2022 (Russia CBP Import Data Release Memo).

[33] *See* section 703(a) of the Act.

country.[34] Otherwise, these CVD investigations will proceed according to the statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [35] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[36] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in these investigations.[37]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[38] Parties must use the certification formats provided in 19 CFR 351.303(g).[39] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The product covered by these investigations is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is $NaNO_2$, and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0. For purposes of the scope of these investigations, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

[FR Doc. 2022–02634 Filed 2–4–22; 8:45 am]

BILLING CODE 3510–DS–P

[34] *Id.*

[35] *See* 19 CFR 351.301(b).

[36] *See* 19 CFR 351.301(b)(2).

[37] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[38] *See* section 782(b) of the Act.

[39] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal**

Register notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to: (a) Identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity To Request a Review: Not later than the last day of February 2022,[2] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

Antidumping Duty Proceedings	
ARGENTINA: Prestressed Concrete Steel Wire Strand, A–357–822	9/30/20–1/31/22
BRAZIL: Certain Carbon and Alloy Steel Cut-to-Length Plate, A–351–847	2/1/21–1/31/22
COLOMBIA: Prestressed Concrete Steel Wire Strand, A–301–804	9/30/2020–1/31/22
EGYPT: Prestressed Concrete Steel Wire Strand, A–729–804	9/30/20–1/31/22
INDIA:	
Certain Cut-To-Length Carbon-Quality Steel Plate, A–533–817	2/1/21–1/31/22
Certain Preserved Mushrooms, A–533–813	2/1/21–1/31/22
Frozen Warmwater Shrimp, A–533–840	2/1/21–1/31/22
Stainless Steel Bar, A–533–810	2/1/21–1/31/22
INDONESIA:	
Certain Cut-To-Length Carbon-Quality Steel Plate, A–560–805	2/1/21–1/31/22
Certain Preserved Mushrooms, A–560–802	2/1/21–1/31/22
ITALY: Stainless Steel Butt-Weld Pipe Fittings, A–475–828	2/1/21–1/31/22
JAPAN: Carbon Steel Butt-Weld Pipe Fittings, A–588–602	2/1/21–1/31/22
MALAYSIA: Stainless Steel Butt-Weld Pipe Fittings, A–557–809	2/1/21–1/31/22
MEXICO: Large Residential Washers, A–201–842	2/1/21–1/31/22
PHILIPPINES: Stainless Steel Butt-Weld Pipe Fittings, A–565–801	2/1/21–1/31/22
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, A–580–836	2/1/21–1/31/22
SAUDI ARABIA: Prestressed Concrete Steel Wire Strand, A–517–806	9/30/20–1/31/22
SOCIALIST REPUBLIC OF VIETNAM:	
Frozen Warmwater Shrimp, A–552–802	2/1/21–1/31/22

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[2] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when Commerce is closed.

Steel Wire Garment Hangers, A–552–812	2/1/21–1/31/22
Utility Scale Wind Towers, A–552–814	2/1/21–1/31/22
SOUTH AFRICA: Carbon and Alloy Steel Cut-To-Length Plate, A–791–822	2/1/21–1/31/22
TAIWAN:	
Carbon and Alloy Steel Threaded Rod, A–583–865	2/1/21–1/31/22
Crystalline Silicon Photovoltaic Products, A–583–853	2/1/21–1/31/22
Prestressed Concrete Steel Wire Strand, A–583–868	9/30/20–1/31/22
THAILAND: Frozen Warmwater Shrimp, A–549–822	2/1/21–1/31/22
THE NETHERLANDS: Prestressed Concrete Steel Wire Strand, A–421–814	9/30/20–1/31/22
THE PEOPLE'S REPUBLIC OF CHINA:	
Certain Preserved Mushrooms, A–570–851	2/1/21–1/31/22
Common Alloy Aluminum Sheet, A–570–073	2/1/21–1/31/22
Crystalline Silicon Photovoltaic, A–570–010	2/1/21–1/31/22
Certain Frozen Warmwater Shrimp, A–570–893	2/1/21–1/31/22
Heavy Forged Hand Tools, With or Without Handles, A–570–803	2/1/21–1/31/22
Large Residential Washers, A–570–033	2/1/21–1/31/22
Rubber Bands, A–570–069	2/1/21–1/31/22
Small Diameter Graphite Electrodes, A–570–929	2/1/21–1/31/22
Truck and Bus Tires, A–570–040	2/1/21–1/31/22
Uncovered Innerspring Units, A–570–928	2/1/21–1/31/22
Utility Scale Wind Towers, A–570–981	2/1/21–1/31/22
Wood Mouldings and Millwork Products, A–570–117	8/12/20–1/31/22
TURKEY:	
Certain Carbon and Alloy Steel Cut-To-Length Plate, A–489–828	2/1/21–1/31/22
Prestressed Concrete Steel Wire Stand, A–489–842	9/30/20–1/31/22
UNITED ARAB EMIRATES: Prestressed Concrete Steel Wire Strand, A–520–809	9/30/20–1/31/22
Countervailing Duty Proceedings	
INDIA:	
Certain Cut-To-Length Carbon-Quality Steel Plate, C–533–818	1/1/21–12/31/21
Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, C–533–874	1/1/21–12/31/21
Prestressed Concrete Steel Wire Strand, C–533–829	1/1/21–12/31/21
INDONESIA: Certain Cut-To-Length Carbon-Quality Steel Plate, C–560–806	1/1/21–12/31/21
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, C–580–837	1/1/21–12/31/21
SOCIALIST REPUBLIC OF VIETNAM: Steel Wire Garment Hangers, C–552–813	1/1/21–12/31/21
THE PEOPLE'S REPUBLIC OF CHINA:	
Cold-Drawn Mechanical Tubing, C–570–059	1/1/21–12/31/21
Common Alloy Aluminum Sheet, C–570–074	1/1/21–12/31/21
Crystalline Silicon Photovoltaic Products, C–570–011	1/1/21–12/31/21
Rubber Bands, C–570–070	1/1/21–12/31/21
Truck and Bus Tires, C–570- 041	1/1/21–12/31/21
Utility Scale Wind Towers, C–570–982	1/1/21–12/31/21
Wood Mouldings and Millwork Products, C–570–118	6/12/20–12/31/21
TURKEY: Prestressed Concrete Steel Wire Stand, C–489–843	9/21/20–12/31/21
Suspension Agreements	
None.	

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[3]

[3] *See* the Enforcement and Compliance website at *https://www.trade.gov/us-antidumping-and-countervailing-duties.*

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *https://access.trade.gov*.[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[7]

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of February 2022. If Commerce does not receive, by the last day of February 2022, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

Establishment of and Updates to the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled ''Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws'' in the **Federal Register**.[8] On September 27, 2021, Commerce also published the notice entitled ''Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions'' in the **Federal Register**.[9] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[10]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** before November 4, 2021, Commerce created an annual inquiry service list segment for each order and suspended investigation. Interested parties who wished to be added to the annual inquiry service list for an order submitted an entry of appearance to the annual inquiry service list segment for the order in ACCESS, and on November 4, 2021, Commerce finalized the initial annual inquiry service lists for each order and suspended investigation. Each annual inquiry service list has been saved as a public service list in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.''[11]

As mentioned in the *Procedural Guidance,* beginning in January 2022, Commerce will update these annual inquiry service lists on an annual basis when the *Opportunity Notice* for the anniversary month of the order or suspended investigation is published in the **Federal Register**.[12] Accordingly, Commerce will update the annual inquiry service lists for the above-listed antidumping and countervailing duty proceedings. All interested parties wishing to appear on the updated annual inquiry service list must take one of the two following actions: (1) New interested parties who did not previously submit an entry of appearance must submit a new entry of appearance at this time; (2) Interested parties who were included in the preceding annual inquiry service list must submit an amended entry of appearance to be included in the next year's annual inquiry service list. For these interested parties, Commerce will change the entry of appearance status from ''Active'' to ''Needs Amendment'' for the annual inquiry service lists corresponding to the above-listed proceedings. This will allow those interested parties to make any necessary amendments and resubmit their entries of appearance. If no amendments need to be made, the interested party should indicate in the area on the ACCESS form requesting an explanation for the amendment that it is resubmitting its entry of appearance for inclusion in the annual inquiry service list for the following year. As mentioned in the

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[6] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[7] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[8] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[9] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[10] *Id.*

[11] This segment has been combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[12] *See Procedural Guidance,* 86 FR at 53206.

Final Rule,[13] once the petitioners and foreign governments have submitted an entry of appearance for the first time, they will automatically be added to the updated annual inquiry service list each year.

Interested parties have 30 days after the date of this notice to submit new or amended entries of appearance. Commerce will then finalize the annual inquiry service lists five business days thereafter. For ease of administration, please note that Commerce requests that law firms with more than one attorney representing interested parties in a proceeding designate a lead attorney to be included on the annual inquiry service list.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [14] Accordingly, as stated above and pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

This notice is not required by statute but is published as a service to the international trading community.

Dated: January 21, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–01991 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–DS–P

[13] *See Final Rule,* 86 FR at 52335.

[14] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–812]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Belgium: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), May 1, 2019, through April 30, 2020. Additionally, Commerce determines that two companies for which we initiated a review had no shipments during the POR.

DATES: Applicable February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Alex Wood or Steven Seifert, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1959 and (202) 482–3350, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers 22 producers and/or exporters of the subject merchandise. Commerce selected two companies, Industeel Belgium S.A. (Industeel) and NLMK Clabecq S.A./NLMK Plate Sales S.A./NLMK Sales Europe S.A./NLMK Manage Steel Center S.A./NLMK La Louviere S.A. (collectively, NLMK Belgium), for individual examination. The producers and/or exporters not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

On August 6, 2021, Commerce published the *Preliminary Results.*[1] In September 2021, Nucor Corporation (the petitioner), AG der Dillinger Huttenwerke (Dillinger), Industeel, and NLMK Belgium submitted case and rebuttal briefs.[2] For a description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3] On November 30, 2021, we extended the deadline for the final results by 60 days, until February 2, 2022.[4]

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other nonmetallic substances from Belgium. Products subject to the order are currently classified in the Harmonized Tariff Schedule on the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum.[6] Interested parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2019–2020,* 86 FR 43166 (August 6, 2021) (*Preliminary Results*).

[2] *See* Petitioner's Letter, ''Nucor's Case Brief and Request for a Hearing,'' dated September 7, 2021; Dillinger's Letter, ''Case Brief,'' dated September 7, 2021; NLMK Belgium's Letter, ''Case Brief,'' dated September 7, 2021; Industeel's Letter, ''Industeel's Rebuttal Brief,'' dated September 17, 2021; and NLMK Belgium's Letter, ''Rebuttal Brief,'' dated September 17, 2021.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* Memorandum, ''Extension of Deadline for Final Results of 2019–2020 Antidumping Duty Administrative Review,'' dated November 30, 2021.

[5] For a full description of the scope of the order, *see* Issues and Decision Memorandum.

[6] *Id.*

directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Determination of No Shipments

As noted in the *Preliminary Results,* we received no-shipment claims from Dillinger and Industeel France S.A.S. (Industeel France). In the *Preliminary Results,* we preliminarily determined that Dillinger and Industeel France had no reviewable transactions during the POR. Therefore, because the record indicates that these companies did not export subject merchandise to the United States during the POR, we continue to find that Dillinger and Industeel France had no reviewable transactions during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by Dillinger or Industeel France, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[7]

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the preliminary weighted-average margin calculations for NLMK Belgium and for those companies not selected for individual review.[8]

Final Results of the Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period May 1, 2019, through April 30, 2020:

Producers/exporters	Weighted-average dumping margin (percent)
Industeel Belgium S.A	0.51
NLMK Clabecq S.A./NLMK Plate Sales S.A./NLMK Sales Europe S.A./NLMK Manage Steel Center S.A./NLMK La Louviere S.A	5.76
C.A. Picard GmbH	3.14
Doerrenberg Edelstahl GmbH	3.14
Edgen Murray	3.14
EEW Steel Trading LLC	3.14
Fike Europe B.A	3.14
Macsteel International	3.14
NLMK Dansteel A.S	3.14
NLMK Verona SpA	3.14
NobelClad Europe GmbH & Co. KG	3.14
RP Technik GmbH Profilsysteme	3.14
Salzgitter Mannesmann International GmbH	3.14
Stahlo Stahl Service GmbH & Co. KG	3.14
Stemcor USA	3.14
Thyssenkrupp Steel Europe	3.14
TWF Treuhandgesellschaft Werbefilm mbH	3.14
Tranter Service Centers	3.14
Válcovny Trub Chomutov A.S	3.14
voestalpine Grobblech GmbH	3.14

Rate for Non-Examined Companies

The Act and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis* (*i.e.,* less than 0.5 percent), or determined entirely on the basis of facts available.

Consistent with section 735(c)(5)(A) of the Act, we determined the weighted-average dumping margin for each of the non-selected companies by using the weighted-average dumping margins calculated for Industeel France and NLMK Belgium in this administrative review.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate

[7] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[8] *See* accompanying Issues and Decision Memorandum.

entries without regard to antidumping duties.

For the companies which were not selected for individual review, we will assign an assessment rate based on the simple average of the cash deposit rates calculated for Industeel and NLMK Belgium. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[9]

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. As indicated above, for Dillinger and Industeel France, we will instruct CBP to liquidate any existing entries of merchandise produced by Dillinger or Industeel France, but exported by other parties, at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.40 percent, the all-others rate established in the LTFV investigation.[10] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is being issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213.

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results
V. Discussion of Issues
  Comment Pertaining to Dillinger
  Comment 1: Recission for AG der Dillinger Hüttenwerke
  Comments Pertaining to Industeel
  Comment 2: Application of Adverse Facts Available to Home Market Inland Freight
  Comment 3: Major Input Rule for Scrap
  Comment 4: Adjustment to General and Administrative Expense Ratio
  Comments Pertaining to NLMK Belgium
  Comment 5: Exclusion of U.S. Sales Matched to the Constructed Value
  Comment 6: Application of Adverse Facts Available to U.S. Inland Freight and Warehousing Expenses
  Comment 7: Constructed Export Price Offset
  Comment 8: Adjustment to U.S. Indirect Selling Expense Ratio
  Comment 9: Adjustment to General and Administrative Expense Ratio
VI. Recommendation

[FR Doc. 2022–02636 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See* section 751(a)(2)(C) of the Act.

[10] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders,* 82 FR 24096, 24098 (May 25, 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–829]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No-Shipments; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that producers or exporters of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) subject to this review made sales of subject merchandise at less than normal value during the period of review (POR) July 1, 2019, through June 30, 2020.

DATES: Applicable February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Jose Rivera, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3642 or (202) 482–0842, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2021, we published the preliminary results of this administrative review and invited interest parties to comment.[1] These final results cover eight companies for which an administrative review was initiated and not rescinded.[2] For a complete description of the events that followed the *Preliminary Results, see* the Issues and Decision Memorandum.[3] Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[4]

The product covered by the *Order* is steel concrete reinforcing bar from Turkey. For a full description of the scope, *see* the Issues and Decision Memorandum.[5]

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum. A list of these issues discussed in the Issues and Decision Memorandum is attached in an appendix to this notice. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received from interested parties, a review of the record, and for the reasons explained in the Issues and Decision Memorandum, we made changes to Kaptan Demir's margin calculations. We did not make changes to Colakoglu's margin.

Final Determination of No Shipments

For the *Preliminary Results,* we found that Habas Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.S (Habas) did not have any shipments of subject merchandise during the POR. No parties commented on this preliminary determination. For the final results of the review, we continue to find that Habas made no shipments of subject merchandise during the POR.

Final Results of the Review

We determine that the following weighted-average dumping margins exist for the period July 1, 2019, through June 30, 2020:

Producers/exporters[6]	Weighted-average dumping margin (percent)
Colakoglu Metalurji A.S./Colakoglu Dis Ticaret A.S	0.00
Kaptan Demir Celik Endüstrisi ve Ticaret A.S./Kaptan Metal Dis Ticaret Ve Nakliyat A.S	1.02
Review-Specific Rate Applicable to the Following Companies:[7]	
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S	1.02
Kroman Celik Sanayi A.S	1.02
Yücel Boru Ithalat-Ihracat ve Pazarlama A.Ş	1.02
Diler Dis Ticaret A.S	1.02

Rates for Non-Selected Companies

For the rate for non-selected respondents in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.'' In this segment of the proceeding, we calculated a margin for Kaptan Demir that was not zero, *de minimis,* or based on facts available, whereas, for Colakoglu, we calculated a margin that was zero. Accordingly, Commerce is assigning Colakoglu's rate of 1.02 percent to companies not selected for individual examination.

Disclosure

Commerce intends to disclose the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this

[1] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No-Shipments; 2019–2020,* 86 FR 43181 (August 6, 2021) (*Preliminary Results*).

[2] On September 3, 2020, Commerce published a notice of initiation listing nine companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 54983 (September 3, 2020) (*Initiation Notice*). Kaptan Demir is being collapsed with Kaptan Metal Dis Ticaret Ve Nakliyat A.S (collectively, Kaptan) and Colakoglu Dis Ticaret A.S. is being collapsed with Colakoglu Metal (collectively, Colakoglu) such that they are treated as single entities. Habas Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.S. had no shipments during the POR, as discussed below in the ''Final Determination of No Shipments'' section.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Steel Concrete Reinforcing Bar from Turkey, 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Steel Concrete Reinforcing Bar from the Republic of Turkey and Japan: Amended Final Affirmative Antidumping Duty Determination for the Republic of Turkey and Antidumping Duty Orders,* 82 FR 32532 (July 14, 2017), as amended, *Steel Concrete Reinforcing Bar from the Republic of Turkey: Notice of Court Decision Not in Harmony With the Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination,* 87 FR 934 (January 22, 2022) (*Order*).

[5] *See* Issues and Decision Memorandum.

[6] As noted above, for the purposes of these final results, we are collapsing Colakoglu Metalurji A. S. with Colakoglu Dis Ticaret A.S. and Kaptan Demir with Kaptan Metal Dis Ticaret Ve Nakliyat A.S. and treating them as single entities; *see* Issues and Decision Memorandum.

[7] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See s*ection 735(c)(5)(A) of the Act.

review.[8] In accordance with 19 CFR 351.212(b)(1), Commerce calculated an importer-specific *ad valorem* antidumping assessment rate for Kaptan Demir that is not zero or *de minimis,* and will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

Commerce will also instruct CBP to apply an *ad valorem* assessment rate of 1.02 percent to all entries of subject merchandise during the POR which were produced and/or exported by Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S., Kroman Celik Sanayi A.S., Yücel Boru Ithalat-Ihracat ve Pazarlama A.Ş., and Diler Dis Ticaret A.S. In addition, we continue to find that Habas had no shipments during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct CBP to liquidate any existing entries of merchandise produced by Habas, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[9]

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Kaptan Demir for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[10]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the *ad valorem* rate is *de minimis,* then the cash deposit rate will be zero); (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the producer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.90 percent, the all-others rate established in the investigation.[11] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

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IX. Recommendation

[FR Doc. 2022–02638 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[9] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[10] *Id.*

[11] *See Order,* 87 FR 935.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–484–803]

Large Diameter Welded Pipe From Greece: Final Results of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the producer/exporter subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), April 19, 2019, through April 30, 2020.

DATES: Applicable February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Paul Litwin, AD/CVD Operations, Office II,

Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6002.

SUPPLEMENTARY INFORMATION:

Background

This review covers one producer and exporter of the subject merchandise, Corinth Pipeworks Pipe Industry S.A. (Corinth). On August 6, 2021, Commerce published the *Preliminary Results.*[1] In September 2021, we received case and rebuttal briefs from the petitioners [2] and Corinth.[3] On October 26, 2021, we held a public hearing to discuss interested parties' comments.[4] For a description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[5] On November 19, 2021, Commerce extended the final results of this review by 60 days, until February 2, 2022.[6]

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel line pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded line pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases.

The large diameter welded line pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, and 7305.19.5000. Merchandise currently classifiable under subheadings 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000 and that otherwise meets the above scope language is also covered. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.[7]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum.[8] Interested parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we find it appropriate to apply a dumping margin based on total adverse facts available (AFA) to Corinth, in accordance with sections 776(a) and (b) of the Act.[9] For further discussion, *see* the Issues and Decision Memorandum.

Final Results of the Review

We are assigning the following weighted-average dumping margin to the firm listed below for the period April 19, 2019, through April 30, 2020:

Producers/exporters	Weighted-average dumping margin (percent)
Corinth Pipeworks Pipe Industry S.A	41.04

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied total AFA to the sole mandatory respondent in this review in accordance with section 776 of the Act, and the AFA dumping margin is based solely on the petition, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Because we are applying total AFA as to Corinth's entries for this POR, we will instruct CBP to apply an assessment rate to all entries Corinth produced and/or exported equal to the dumping margin indicated above.

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S.

[1] *See Large Diameter Welded Pipe from Greece: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 43172 (August 6, 2021) (*Preliminary Results*).

[2] The petitioners are American Cast Iron Pipe Company, Berg Steel Pipe Corp., Berg Spiral Pipe Corp., Dura-Bond Industries, JS W Steel (USA) Inc., Stupp Corporation, Welspun Global Trade LLC, individually and as members of the American Line Pipe Producers Association; Greens Bayou Pipe Mill, LP; Skyline Steel; and Trinity Products LLC (collectively, the petitioners).

[3] *See* Petitioners' Letter, ''Case Brief,'' dated September 14, 2021; *see also* Corinth's Letter, ''Case Brief on behalf of Corinth Pipeworks and Corinth America,'' dated September 14, 2021; Petitioners' Letter, ''Rebuttal Brief,'' dated September 28, 2021; and Corinth's Letter, ''Rebuttal Brief on Behalf of Corinth Pipeworks and Corinth America,'' dated September 28, 2021.

[4] *See* Memorandum, ''2019–2020 Administrative Review of Large Diameter Welded Pipe from Greece: Scheduling of Public Hearing,'' dated October 26, 2021.

[5] *See* Memorandum, ''Decision Memorandum for the Final Results of the 2019–2020 Administrative Review of the Antidumping Duty Order on Large Diameter Welded Carbon and Alloy Steel Line Pipe from Greece,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[6] *See* Memorandum, ''Extension of Deadline for Final Results of 2019–2020 Antidumping Duty Administrative Review,'' dated November 19, 2021.

[7] On June 22, 2020, Commerce published a notice in the **Federal Register** revoking the order, in part, with respect to certain welded pipe products with specific combinations of grades, diameters, and wall thicknesses in response to a changed circumstances review request. This change in the scope was effective as of June 22, 2020, and, thus, not applicable to this review. *See Large Diameter Welded Pipe from Greece: Final Results of Antidumping Duty Changed Circumstances Reviews,* 85 FR 37424 (June 22, 2020). For a full description of the scope of the order, *see* Issues and Decision Memorandum.

[8] *See* Issues and Decision Memorandum.

[9] *Id.*

Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Corinth will be the rate shown above; (2) for previously investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 10.26 percent, the all-others rate made effective by the LTFV investigation.[10] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is being issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213.

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

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Comment 6: Application of Partial AFA to Services Provided by Dia.Vi.Pe.Thi.V S.A
Comment 7: Double Counting of Foreign Port Charges on U.S. Sales
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VI. Recommendation

[FR Doc. 2022–02637 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See Large Diameter Welded Pipe from Greece: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order,* 84 FR 18769 (May 2, 2019).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–906, A–821–836]

Sodium Nitrite From India and the Russian Federation: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 2, 2022.

FOR FURTHER INFORMATION CONTACT: Joy Zhang (India) or Paola Aleman Ordaz (the Russian Federation (Russia)); AD/CVD Operations, Offices III and IV, respectively, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1168 and (202) 482–4031, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 13, 2022, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of sodium nitrite from India and Russia filed in proper form on behalf of Chemtrade Chemicals US, LLC (the petitioner), a domestic producer of sodium nitrite.[1] The Petitions were accompanied by countervailing duty (CVD) petitions concerning imports of sodium nitrite from India and Russia.[2]

Between January 19 and 27, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires and telephone calls.[3] The petitioner filed responses to the supplemental questionnaires on January 21, 24, and 27, 2022.[4]

[1] *See* Petitioner's Letter, ''Sodium Nitrite from India and Russia: Antidumping and Countervailing Duty Petitions,'' dated January 13, 2022 (the Petitions).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and the Russian Federation: Supplemental Questions,'' dated January 19, 2022; ''Petition for the Imposition of Antidumping Duties on Imports of Sodium Nitrite from India: Supplemental Questions,'' dated January 19, 2022; and ''Petition for the Imposition of Antidumping Duties on Imports of Sodium Nitrite from the Russian Federation: AD Questions,'' dated January 20, 2022; *see also* Memoranda, ''Phone Call with Counsel to the Petitioner,'' dated January 27, 2022.

[4] *See* Petitioner's Letters, ''Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and Russia: Supplemental Questionnaire Responses to Petition General Issues,'' dated January 21, 2022 (General Issues Supplement); ''Sodium Nitrite from India and Russia: Errata to Supplemental Questionnaire Responses to Petition General Issues,'' dated January 24, 2022 (General Issues Errata); ''Sodium Nitrite from India: Responses to Supplemental Questions Regarding the Antidumping Duty Petition,'' dated January 24, 2022; ''Petition for the Imposition of Antidumping Duties on Imports of Sodium Nitrite from Russia: Responses to Supplemental Questions Regarding the Antidumping Duty Petition,'' dated January 24, 2022; ''Sodium Nitrite from India and Russia: Second Supplemental Questionnaire Response to Petition General Issues,'' dated January 27, 2022 (Second General Issues Supplement); ''Sodium Nitrite from India: Responses to Second Supplemental Questions Regarding the Antidumping Duty Petition,'' dated January 27, 2022; and ''Petition for the Imposition of Antidumping Duties on Imports of Sodium Nitrite from Russia: Responses to Second Supplemental Questions Regarding the Antidumping Duty Petition,'' dated January 27, 2022.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of sodium nitrite from India and Russia are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the sodium nitrite industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigations.[5]

Periods of Investigation

Because the Petitions were filed on January 13, 2022, the period of investigation (POI) for these LTFV investigations is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(1).[6]

Scope of the Investigations

The product covered by these investigations is sodium nitrite from India and Russia. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[7] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[8] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on February 22, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of these investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of these investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[9] An electronically-filed document must be received successfully in its entirety by the time and date on which it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[10]

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of sodium nitrite to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe sodium nitrite, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on February 22, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on March 4, 2022, which is ten calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the LTFV investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus,

[5] *See infra,* section titled ''Determination of Industry Support for the Petitions.''

[6] *See* 19 CFR 351.204(b)(1).

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[8] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[9] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[10] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[11] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[12]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[13] Based on our analysis of the information submitted on the record, we have determined that sodium nitrite, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[14]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided its own total production volume of sodium nitrite during the calendar year 2021.[15] The petitioner also provided an estimate of the 2021 production volume for the only other known U.S. producer of sodium nitrite, SABIC Innovative Chemicals US, LLC.[16] The petitioner then compared its own production volume of sodium nitrite to the total volume of sodium nitrite produced by the U.S. industry.[17] We relied on data provided by the petitioner for purposes of measuring industry support.[18]

Our review of the data provided in the Petitions, the General Issues Supplement, General Issues Errata, Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions. First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[19] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[20] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[21] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[22]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[23]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and suppression; lost sales and revenues; declines in production, shipments, capacity utilization, and employment; and a decline in sales revenues and a negative impact on operating profits.[24] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[25]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate these LTFV investigations on imports of sodium nitrite from India and Russia. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific AD initiation checklists.

U.S. Price

For India and Russia, the petitioner based export price (EP) on the average unit values (AUVs) of publicly available import data.[26] For India, the petitioner also based EP on price quotes for the sale of sodium nitrite produced in, and

[11] *See* section 771(10) of the Act.

[12] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

[13] *See* Petitions at Volume I at 10–15.

[14] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Country-Specific AD Initiation Checklists, ''Antidumping Duty Investigation Initiation Checklists: Sodium Nitrite from India and the Russian Federation,'' dated concurrently with this **Federal Register** notice and on file electronically via ACCESS (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Sodium Nitrite from India and the Russian Federation (Attachment II).

[15] *See* Petitions at Volume I at 3; *see also* General Issues Supplement at 3–4; and General Issues Errata at 1.

[16] *See* Petitions at Volume I at Exhibit I–1; *see also* General Issues Supplement at 3–4 and Exhibit I–25; General Issues Errata at 1; and Second General Issues Supplement at 1 and Exhibit I–28.

[17] *See* General Issues Supplement at 4; *see also* General Issues Errata at 1.

[18] *See* Petitions at Volume I at 3 and Exhibit I–1; *see also* General Issues Supplement at 3–4 and Exhibit I–25; General Issues Errata at 1; and Second General Issues Supplement at 1 and Exhibit I–28. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

[19] *See* Country-Specific AD Initiation Checklists at Attachment II; *see also* section 732(c)(4)(D) of the Act.

[20] *See* Country-Specific AD Initiation Checklists at Attachment II.

[21] *Id.*

[22] *Id.*

[23] *See* Petitions at Volume I at 15 and Exhibit I–7; *see also* General Issues Supplement at 4 and Exhibit I–26; and General Issues Errata at 1–2 and Exhibit I–26.

[24] *See* Petitions at Volume I at 15–34 and Exhibits I–5, I–7, I–9 through I–15, and I–18; *see also* General Issues Supplement at 4–7 and Exhibits I–22 through I–24 and I–27.

[25] *See* Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Sodium Nitrite from India and the Russian Federation (Attachment III).

[26] *See* Country-Specific AD Initiation Checklists.

exported from, India and offered for sale in the United States.[27] The petitioner conservatively did not adjust the U.S. prices based on AUVs for movement or other expenses incurred in India and Russia for purposes of calculating net U.S. prices.[28] For India, the petitioner made certain adjustments for movement and other expenses for the U.S. price based on price quotes to calculate a net U.S. price.[29]

Normal Value [30]

For India, the petitioner based NV on home market pricing information obtained through market research for sodium nitrite produced in and sold, or offered for sale, in India.[31] For Russia, the petitioner provided information indicating that the home market price it obtained through market research was below the cost of production (COP) and, therefore, the petitioner calculated NV based on constructed value (CV).[32] For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value.''

Normal Value Based on Constructed Value

As noted above, the petitioner provided information indicating that the price charged for sodium nitrite produced in and sold, or offered for sale, in Russia was below the COP; therefore, for Russia, the petitioner calculated NV based on CV.[33] Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing; selling, general, and administrative expenses; financial expenses; and profit.[34] In calculating the cost of manufacturing, the petitioner relied on its own production experience and input consumption rates, adjusted for known differences, and valued inputs using publicly available information on costs specific to Russia during the proposed POI.[35] In calculating selling, general, and administrative expenses; financial expenses; and profit ratios, the petitioner relied on the 2020 financial statements of a producer of chemical fertilizers and related mineral products and by-products in Russia.[36]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of sodium nitrite from India and Russia are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV or CV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for sodium nitrite from each of the countries covered by this initiation are as follows: (1) India—53.43 to 153.30 percent; and (2) Russia—207.17 percent.[37]

Initiation of LTFV Investigations

Based upon our examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating these LTFV investigations to determine whether imports of sodium nitrite from India and Russia are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioner identified four companies in India and one company in Russia as producers and/or exporters of sodium nitrite.[38] With respect to India, following standard practice in LTFV investigations involving market economy countries, in the event that Commerce determines that the number of exporters or producers in any individual case is large such that it cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the ''Scope of the Investigations,'' in the appendix.

On January 25 and 28, 2022, Commerce released CBP data on U.S. imports of sodium nitrite from India and Russia, respectively, under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days after the publication date of the notice of initiation of these investigations.[39] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

The petitioner named only one company as a producer/exporter of sodium nitrite in Russia, Uralchem, JSC (Uralchem).[40] We placed CBP import data on the record of this proceeding, which supports the petitioner's identification of Uralchem as the sole producer/exporter of sodium nitrite in Russia.[41] We currently know of no other producers/exporters of subject merchandise in Russia. Accordingly, Commerce intends to examine all known producers/exporters in this investigation (*i.e.,* Uralchem). We are providing interested parties with an opportunity to comment on the CBP data and respondent selection within three business days of publication of this notice in the **Federal Register**.[42] As noted above, Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. If no comments are received, or if the comments that Commerce receives further support the existence of Uralchem as the sole producer/exporter of sodium nitrite in Russia, we do not intend to conduct respondent selection and will issue the AD questionnaire to Uralchem. However, if Commerce receives comments that require it to select a respondent, we intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Comments on CBP data and respondent selection must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://enforcement.trade.gov/apo.*

[27] *See* India AD Initiation Checklist.

[28] *See* Country-Specific AD Initiation Checklists.

[29] *See* India AD Initiation Checklist.

[30] In accordance with section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the constructed value (CV) and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[31] *See* India AD Initiation Checklist.

[32] *See* Russia AD Initiation Checklist.

[33] *See* Russia AD Initiation Checklist.

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *See* Country-Specific AD Initiation Checklists.

[38] *See* Petitions at Volume I at 9–10 and Exhibit I–6; *see also* General Issues Supplement at 1–3.

[39] *See* Memoranda, ''Antidumping Duty Investigation of Sodium Nitrite from India: Release of Customs Data from U.S. Customs and Border Protection,'' dated January 25, 2022, and ''Antidumping Duty Petition on Imports of Sodium Nitrite from the Russian Federation: Release of U.S. Customs and Border Protection Data,'' dated January 28, 2022 (Russia CBP Import Data Release Memorandum).

[40] *See* Petitions at Volume IV at 10 and Exhibit IV–1.

[41] *See* Russia CBP Import Data Release Memorandum.

[42] Id.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of India and Russia via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of sodium nitrite from India and/or Russia are materially injuring, or threatening material injury to, a U.S. industry.[43] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[44] Otherwise, these LTFV investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [45] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[46] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in these investigations.[47]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[48] Parties must use the certification formats provided in 19 CFR 351.303(g).[49] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing a letter of appearance as discussed). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[50]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 2, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The product covered by these investigations is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is $NaNO_2$, and it is

[43] *See* section 733(a) of the Act.

[44] *Id.*

[45] *See* 19 CFR 351.301(b).

[46] *See* 19 CFR 351.301(b)(2).

[47] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[48] *See* section 782(b) of the Act.

[49] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[50] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0. For purposes of the scope of these investigations, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

[FR Doc. 2022–02635 Filed 2–4–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Meeting of the Civil Nuclear Trade Advisory Committee

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of a partially closed federal advisory committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a partially closed meeting of the Civil Nuclear Trade Advisory Committee (CINTAC).

DATES: The meeting is scheduled for Thursday, February 17, 2022, from 10:00 a.m. to 3:00 p.m. Eastern Standard Time (EST). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EST on Friday, February 11, 2022.

ADDRESSES: The meeting will be held virtually via Microsoft Teams. Requests to register to participate (including to speak or for auxiliary aids) and any written comments should be submitted via email to Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration, at *jonathan.chesebro@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–482–1297; email: *jonathan.chesebro@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. app.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

The Department of Commerce renewed the CINTAC charter on August 5, 2020. This meeting is being convened under the seventh charter of the CINTAC.

Topics to be considered: The agenda for the CINTAC meeting on Thursday, February 17, 2022, is as follows:

Closed Session (10:00 a.m.–1:00 p.m.)—Discussion of matters determined to be exempt from the provisions of the Federal Advisory Committee Act relating to public meetings found in 5 U.S.C. app. (10)(a)(1) and 10(a)(3). The session will be closed to the public pursuant to Section 10(d) of FACA as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409, and in accordance with Section 552b(c)(4) and Section 552b(c)(9)(B) of Title 5, United States Code, which authorize closure of meetings that are ''likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential'' and ''likely to significantly frustrate implementation of a proposed agency action,'' respectively. The part of the meeting that will be closed will address (1) nuclear cooperation agreements; (2) encouraging ratification of the Convention on Supplementary Compensation for Nuclear Damage; and (3) identification of specific trade barriers impacting the U.S. civil nuclear industry.

Public Session (1:00 p.m.–3:00 p.m.)—Discuss work of the subcommittees, review of deliberative recommendations, and opportunity to hear from members of the public.

Members of the public wishing to attend the public session of the meeting must notify Mr. Chesebro at the contact information above by 5:00 p.m. EST on Friday, February 11, 2022 in order to pre-register to participate. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted but may not be possible to fill. A limited amount of time will be available for brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. Individuals wishing to reserve speaking time during the meeting must contact Mr. Chesebro and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5:00 p.m. EST on Friday, February 11, 2022. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers.

Any member of the public may submit written comments concerning the CINTAC's affairs at any time before or after the meeting. Comments may be submitted to Mr. Jonathan Chesebro at *Jonathan.chesebro@trade.gov.* For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EST on Friday, February 11, 2022. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Dated: February 3, 2022.

Devin Horne,

Senior International Trade Specialist, Office of Energy and Environmental Industries.

[FR Doc. 2022–02590 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB785]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) will convene a webinar meeting of its Groundfish Management Team (GMT) to discuss items on the Pacific Council's March 2022 meeting agenda. This meeting is open to the public.

DATES: The online meeting will be held on Wednesday, February 23, 2022, from 1 p.m. to 4 p.m. Pacific Standard Time. The scheduled ending time for this

GMT meeting is an estimate, the meeting will adjourn when business for the day is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Todd Phillips, Staff Officer, Pacific Council; telephone: (503) 820–2426.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT webinar is to prepare for the Pacific Council's March 2022 agenda items. The GMT will discuss items related to groundfish management, administrative, and potentially ecosystem matters on the Pacific Council agenda. A detailed agenda for the webinar will be available on the Pacific Council's website prior to the meeting. The GMT may also address other assignments relating to groundfish management. No management actions will be decided by the GMT.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: February 3, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–02608 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB713]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the NOAA Port Facility Project in Ketchikan, Alaska

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to NOAA to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with the NOAA Port Facility Project in Ketchikan, Alaska.

DATES: This Authorization is effective from February 3, 2022 through February 2, 2023.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed IHA may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On October 26, 2021, NMFS received an application from NOAA's Office of Marine and Aviation Operations requesting an IHA to take small numbers of nine species (Dall's porpoise (*Phocoenoides dalli*), Steller sea lions (*Eumetopias jubatus*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), minke whale (*Balaenoptera acutorostrata*), harbor seal (*Phoca vitulina*), harbor porpoise (*Phocoena phocoena*) and humpback whale (*Megaptera novaeangliae*)) of marine mammals incidental to vibratory and impact pile driving and down-the-hole (DTH) system use associated with the project. The application was deemed adequate and complete on November 16, 2021. NOAA's request is for take of a small number of these species by Level A or Level B harassment. Neither NOAA nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of the Specified Activity

Overview

The purpose of the project is to remove an obsolete dock facility and construct a new facility including a 240 feet (ft) × 50 ft floating pier connected to land by a transfer bridge. A small boat dock would be connected to the large ship pier and a small boat launch ramp will be constructed adjacent to the other structures. Table 1 provides a summary of the pile driving activities. Since the proposed authorization the applicant has decided that they may also remove the old steel piles with a vibratory hammer or direct pull. Because the steel piles being removed could be removed using either a vibratory hammer, pile clipper or hydraulic saw, we use the

loudest, most precautionary source level for those piles which are pile clippers. That change has no effect however on estimated take (see below). In summary, the project period includes 47 days of pile or DTH activities for which this IHA is requested. A detailed description of the planned project is provided in the **Federal Register** notice for the proposed IHA (86 FR 68223; December 1, 2021). Since that time, no additional changes have been made to the planned activities beyond adding voluntary acoustic monitoring and recognizing that there may be some 18-inch diameter steel piles, intermediate in size to the already identified 14 to 24-inch diameter steel piles as described below. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

TABLE 1—SUMMARY OF PILE DRIVING ACTIVITIES AND USER SPREADSHEET INPUTS

Method	Pile type	Number of piles	Minutes/strikes per pile	Piles per day
DTH	24-inch Steel	18	25,000	1.5
Impact			48	1.5
Vibratory	14-inch Timber	130	2	10
Vibratory	14 to 16-inch Steel	28	5	5
Vibratory	18 to 24-inch Steel	42	5	5
Small Pile Clipper	14 to 16-inch Steel	28	10	10
Large Pile Clipper	18 to 24-inch Steel	42	10	10
Totals		218		

All User spreadsheet calculations use Transmission Loss = 15 and standard weighting factor adjustments

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS's proposal to issue an IHA to NOAA was published in the **Federal Register** on December 1, 2021 (86 FR 68223). That notice described, in detail, NOAA's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received no public comments or comments from the Marine Mammal Commission.

Changes From the Proposed IHA to Final IHA

While we are not requiring acoustic monitoring or sound source verification studies for this project because the construction equipment and pile types and sizes are common ones for which we have significant data, the applicant has requested the possibility of altering shutdown and/or harassment zones based on voluntary acoustic monitoring, so we have added our standard term for this to the IHA (see below).

Since the proposed authorization the applicant has decided that they may also remove the old steel piles with a vibratory hammer or direct pull, but as mentioned above, the source levels for these are quieter than the loudest possible tool that could be used to remove these piles, large pile clippers, so there is no effect on take (see above). They have also discovered that there may be some 18-inch diameter steel piles as part of the mix of pile sizes already described that vary from 14- to 24-inch diameter. That change also has no effect however on estimated take. Direct pulling does not generate sounds exceeding the regulatory thresholds so need not be discussed further.

The applicant has decided they would rather have hearing-group-specific shutdown zone sizes. Therefore the idea discussed in the proposed IHA of implementing fewer taxa-based shutdown ones has been rejected as described below.

Some source level references in Table 4 were incorrect and have been fixed. A few minor typographic errors were corrected.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species with expected potential for occurrence in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska or Pacific SARs, including the 2021 draft SARs.

TABLE 2—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	-,-; Y	10,103 (0.3, 7,890, 2006)	83	26
Minke Whale	*Balaenoptera acutorostrata*	Alaska	-,-; N	N/A (see SAR, N/A, see SAR)	UND	0
Family Eschrichtiidae (gray whale):						
Gray Whale	*Eschrichtius robustus*	Eastern North Pacific	-,-; N	26,960 (0.05, 25,849, 2016)	801	131
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Pacific white-sided dolphin	*Lagenorhynchus obliquidens*	North Pacific	-,-; N	26,880 (N/A, N/A, 1990)	UND	0
Killer Whale	*Orcinus orca*	Northern Resident	-,-; N	302 (N/A, 302, 2018)	2.2	0.2
		Alaska Resident	-,-; N	2,347 (N/A, 2347, 2012)	24	1
		West Coast Transient	-,-; N	349 (N/A, 349, 2018)	3.5	0.4
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, -; N	see SAR (see SAR, see SAR, 2012).	See SAR	34
Dall's porpoise	*Phocoenoides dalli*	Entire Alaska Stock	-, -; N	83,400 (0.097, N/A, 1991)	UND	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (sea lions and fur seals):						
Steller sea lion	*Eumetopias jubatus*	Eastern Stock	-, -; N	43,201 a (see SAR, 43,201, 2017).	2592	112
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	Clarence Strait	-; N	27,659 (see SAR, 24,854, 2015).	746	40

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual Mortality/Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Humpback whales, minke whales, gray whales, Pacific white-sided dolphin, killer whale, harbor porpoise, Dall's porpoise, harbor seal, and Steller sea lions spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing take of these species. Fin whale could potentially occur in the area, however there are no known sightings nearby so the species is very rare, is readily observed, and the applicant would shut down pile driving if they enter the project area. Thus take is not expected to occur, and they are not discussed further.

A detailed description of the of the species likely to be affected by the project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (86 FR 68223; December 1, 2021); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from NOAA's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (86 FR 68223; December 1, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from NOAA's construction on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (86 FR 68223; December 1, 2021).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the acoustic sources (*i.e.,* vibratory or impact pile driving and DTH) have the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for porpoises and harbor seals because predicted auditory injury zones are larger. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Due to the lack of marine mammal density, NMFS relied on local occurrence data and group size to estimate take for some species. Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 microPascal (μPa) (root mean square (rms)) for continuous (*e.g.,* vibratory pile-driving) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* impact pile driving) or intermittent (*e.g.,* scientific sonar) sources.

NOAA's proposed activity includes the use of continuous (vibratory hammer and DTH) and impulsive (DTH and impact pile-driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). NOAA's activity includes the use of impulsive (impact pile-driving and DTH) and non-impulsive (vibratory hammer and DTH) sources.

These thresholds are provided in Table 3. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* impact and vibratory pile driving, and DTH).

In order to calculate distances to the Level A harassment and Level B harassment sound thresholds for the methods and piles being used in this

project, NMFS used acoustic monitoring data from other locations to develop source levels for the various pile types, sizes and methods (Table 4). Because the steel piles being removed could be removed using either a vibratory hammer, pile clipper or hydraulic saw, we use the loudest, most precautionary source level for our analysis of the removal of those piles.

TABLE 4—PROJECT SOUND SOURCE LEVELS

Method	Estimated noise levels (dB)	Source
24-inch DTH—impulsive	154 SELss	Reyff & Heyvaert (2019).
24-inch DTH—non-impulsive	166 dB RMS	Denes *et al.* (2016).
24-inch Steel Impact	211.2 Pk, 182.1 SEL, 197 RMS	Denes *et al.* (2016) max.
14-inch Timber Vibratory	157 RMS	WADOT (2011) plus 4 dB.
Small Pile Clipper	154 RMS	NAVFAC SW (2020).
Large Pile Clipper	161 RMS	NAVFAC SW (2020).

Note: SEL = single strike sound exposure level; RMS = root mean square.

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

TL = B * Log10 (R1/R2),

where

TL = transmission loss in dB
B = transmission loss coefficient; for practical spreading equals 15
R1 = the distance of the modeled SPL from the driven pile, and
R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for NOAA's proposed activity in the absence of specific modelling.

NOAA determined underwater noise would fall below the behavioral effects threshold of 160 dB RMS for impact driving at 2,530 m and the 120 dB rms threshold for the other methods at between 1848 and 11,659 m (Table 5). It should be noted that based on the bathymetry and geography of the project area, sound will not reach the full distance of the harassment isopleths in all directions.

Level A Harassment Zones

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of take by Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as pile driving or removal and DTH using any of the methods discussed above, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. We used the User Spreadsheet to determine the Level A harassment isopleths. Inputs used in the User Spreadsheet or models are reported in Table 1 and the resulting isopleths are reported in Table 5 for each of the construction methods and scenarios.

TABLE 5—LEVEL A AND LEVEL B ISOPLETHS (METERS) FOR EACH METHOD

Method	Pile type	Low frequency	Mid-frequency	High frequency	Phocids	Otariids	Level B
DTH	24-inch steel	130	5	155	70	5	11,659
Impact	24-inch steel	151	5	179	81	6	2,530
Vibratory	14-inch Timber	2	0	3	1	0	2,929
Small Pile Clipper	14 to 20-inch Steel	3.3	0	5	2	0	1,848
Large Pile Clipper	14- to 24-inch Steel	9.6	1	14	6	0	5,412

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence or group dynamics of marine mammals that will inform the take calculations. No density data are available for species in the project area. Here we describe how the information provided above is brought together to produce a quantitative take estimate. The estimates below are similar to and informed by prior projects in the Ketchikan area as discussed above. A summary of proposed take is in Table 6.

Humpback Whale

Humpback whales are expected to occur in the project area no more than twice per five-day work week. Typical group size for humpback whales in the project area is two animals. The project involves 47 days (10 work weeks) of in-water work where take could occur. Therefore, we estimate total take at 2 whales x 2/week x 10 weeks = 40 takes. All of these takes are expected to be Level B harassment takes as we believe the Level A shutdown zones can be

fully implemented by Protected Species Observers (PSO) because of the large size, short dive duration, and obvious behaviors of humpback whales.

Given the data in Wade (2021) discussed above on the relative frequencies of Hawaii and Mexico DPS humpback whales in the project area the 40 takes is expected to comprise 39 Hawaii DPS animals and 1 Mexico DPS animal.

Minke Whale

As discussed above minke whales have not been seen in the project area but could occur there. They are often solitary. Therefore we conservatively authorize a single take of minke whales. This one estimated take is expected to be by Level B harassment as we believe the Level A shutdown zones can be fully implemented by PSOs because of the large size, short dive duration, and obvious behaviors of minke whales.

Gray Whale

Gray whales are expected to occur in the project area no more than once per month. Typical group size for gray whales in the project area is two animals. The project involves 47 days of in-water work where take could occur. Therefore, we estimate total take at two whales × two full months = four takes. All of these takes are expected to be Level B harassment takes as we believe the Level A shutdown zones can be fully implemented by PSOs because of the large size, short dive duration, and obvious behaviors of gray whales.

Killer Whale

Killer whales are expected to occur in the project area no more than once per month. Typical group size for killer whales in the project area is conservatively estimated at 10 animals. The project involves 47 days of in-water work where take could occur. Therefore, we estimate total take at 10 whales × 2 full months = 20 takes. All of these takes are expected to be Level B harassment takes as we believe the Level A shutdown zones can be fully implemented by PSOs because of the large size, short dive duration, and obvious behaviors of killer whales and the smaller size of the shutdown zones.

Pacific White-Sided Dolphin

Pacific white-sided dolphins are expected to occur in the project area no more than once per week. Typical group size for Pacific white-sided dolphins in the project area is 20 animals. The project involves 10 work weeks of in-water work where take could occur. Therefore, we estimate total take at 20 dolphins × 10 weeks = 200 takes. All of these takes are expected to be Level B harassment takes as we believe the Level A shutdown zones can be fully implemented by PSOs because of the large group size, short dive duration, and obvious behaviors of Pacific white-sided dolphins and the smaller size of the shutdown zones.

Harbor Porpoise

Harbor porpoises are expected to occur in the project area no more than three times per month. Typical group size for harbor porpoises in the project area is 5 animals. The project involves 47 days (2 months) of in-water work where take could occur. Therefore, we estimate total take at 5 porpoises × 6/month = 30 takes. Twenty of these takes are expected to be Level B harassment takes. Because harbor porpoises are small and cryptic and could sometimes remain undetected within the estimated harassment zones for a duration sufficient to experience PTS, we authorize 10 takes by Level A harassment.

Dall's Porpoise

Dall's porpoises are expected to occur in the project area no more than three times. Typical group size for Dall's porpoises in the project area is 20 animals. The project involves two months of in-water work where take could occur. Therefore, we estimate total take at 20 porpoises × 3 = 60 takes. Forty of these takes are expected to be Level B harassment takes. Because Dall's porpoises are small and cryptic and could sometimes remain undetected within the estimated harassment zones for a duration sufficient to experience PTS, we authorize 20 takes by Level A harassment.

Harbor Seal

Harbor seals are expected to occur in the project area once per day. The typical number of harbor seals per day in the project area is up to 12 animals. The project involves 47 days of in-water work where take could occur. Therefore, we estimate total take at 12 seals × 47 days = 564 takes. Seventy-five percent or 423 of these takes are expected to be Level B harassment takes. Because harbor seals are small and cryptic and could sometimes remain undetected within the estimated harassment zones for a duration sufficient to experience PTS, we authorize 141 takes by Level A harassment.

Steller Sea Lion

Steller sea lions are expected to occur in the project area once per day. The typical number of Steller sea lions per day in the project area is up to 10 animals. The project involves 47 days of in-water work where take could occur. Therefore, we estimate total take at 10 sea lions × 47 days = 470 takes. Because the shutdown zone is small and Steller sea lions are not cryptic we believe the Level A shutdown zones can be fully implemented by PSOs and no Level A harassment take is authorized.

TABLE 6—PROPOSED AUTHORIZED AMOUNT OF TAKING, BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT, BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Common name	Stock	Level B harassment	Level A harassment	Percent of stock
Humpback whale *	Central North Pacific	40	0	0.4
Minke whale	Alaska	1	0	<0.1
Gray whale	Eastern North Pacific	4	0	<0.1
Killer whale	Northern Resident, Alaska Resident, West Coast Transient.	20	0	<6.7
Pacific White-sided dolphin	North Pacific	200	0	0.7
Dall's porpoise	Alaska	40	20	<0.1
Harbor porpoise	Southeast Alaska	20	10	0.3
Harbor seal	Clarence Strait	423	141	2.1
Steller sea lion	Eastern DPS	470	0	1.1

* 1 take from the ESA listed Mexico DPS.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for IHAs to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Because of the need for an ESA Section 7 consultation for effects of the project on ESA listed humpback whales, there are a number of mitigation measures that go beyond or are in addition to typical mitigation measures we would otherwise require for this sort of project. The measures are however typical for actions in the Ketchikan area. The following mitigation measures are in the IHA:

- Avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions;
- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant NOAA staff prior to the start of all pile driving and DTH activity and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone. If an ESA listed marine mammal is determined by the PSO to have been disturbed, harassed, harmed, injured, or killed (*e.g.,* a listed marine mammal is observed entering a shutdown zone before operations can be shut down, or is injured or killed as a direct or indirect result of this action), the PSO will report the incident to within one business day to *akr.section7@noaa.gov;*
- NOAA will establish and implement the shutdown zones indicated in Table 7. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones typically vary based on the activity type and marine mammal hearing group. At the applicant's request we will not implement the single shutdown zone size per activity discussed in the proposed IHA;
- Employ PSOs and establish monitoring locations as described in the Marine Mammal Monitoring Plan and Section 5 of the IHA. The Holder must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. For all pile driving and removal at least three PSOs must be used;
- The placement of the PSOs during all pile driving and removal and DTH activities will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected;
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine the shutdown zones clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made;
- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal (30 minutes for humpback whales);
- For humpback whales, if the boundaries of the harassment zone have not been monitored continuously during a work stoppage, the entire harassment zone will be surveyed again to ensure that no humpback whales have entered the harassment zone that were not previously accounted for;
- In-water activities will take place only: Between civil dawn and civil dusk when PSOs can effectively monitor for the presence of marine mammals; during conditions with a Beaufort Sea State of 4 or less; when the entire shutdown zone and adjacent waters are visible (*e.g.,* monitoring effectiveness is not reduced due to rain, fog, snow, etc.). Pile driving activities may continue for up to 30 minutes after sunset during evening civil twilight, as necessary to secure a pile for safety prior to demobilization for the evening. PSO(s) will continue to observe shutdown and monitoring zones during this time. The length of the post-activity monitoring period may be reduced if darkness precludes visibility of the shutdown and monitoring zones;
- Vessel operators will maintain a watch for marine mammals at all times while underway; stay at least 91 m (100 yards (yd)) away from listed marine mammals; travel at less than 5 knots (9 km/hr) when within 274 m (300 yd) of a whale; avoid changes in direction and speed when within 274 m (300 yd) of whales, unless doing so is necessary for maritime safety; not position vessel(s) in the path of whales, and will not cut in front of whales in a way or at a distance that causes the whales to change their direction of travel or behavior (including breathing/surfacing pattern); check the waters immediately adjacent to the vessel(s) to ensure that no whales will be injured when the propellers are engaged; reduce vessel speed to 10 knots or less when weather conditions

reduce visibility to 1.6 km (1 mi) or less; adhere to the Alaska Humpback Whale Approach Regulations when transiting to and from the project site (see 50 CFR 216.18, 223.214, and 224.103(b)); not allow lines to remain in the water, and no trash or other debris will be thrown overboard, thereby reducing the potential for marine mammal entanglement; follow established transit routes and will travel <10 knots while in the harassment zones; the speed limit within Tongass Narrows is 7 knots for vessels over 23 ft in length. If a whale's course and speed are such that it will likely cross in front of a vessel that is underway, or approach within 91 m (100 yards (yd)) of the vessel, and if maritime conditions safely allow, the engine will be put in neutral and the whale will be allowed to pass beyond the vessel; and

• NOAA must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

TABLE 7—MINIMUM REQUIRED SHUTDOWN ZONES (METERS) BY HEARING GROUP FOR EACH METHOD

Method	Pile type	Low frequency	Mid-frequency	High frequency	Phocids	Otariids
DTH	24-inch steel	130	10	160	70	10
Impact	24-inch steel	160	10	180	90	10
Vibratory	14-inch Timber	10	10	10	10	10
Small Pile Clipper	14 to 16-inch Steel	10	10	10	10	10
Large Pile Clipper	18- to 24-inch Steel	10	10	20	10	10

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

• Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following:

• PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued IHA. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. PSOs must be approved by NMFS prior to beginning any activity subject to this IHA; and

• PSOs must record all observations of marine mammals as described in the Section 5 of the IHA and the Marine Mammal Monitoring Plan, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed;

PSOs must have the following additional qualifications:

• Ability to conduct field observations and collect data according to assigned protocols;

• Experience or training in the field identification of marine mammals, including the identification of behaviors;

• Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

• Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;

NOAA must establish the following monitoring locations. For all pile driving and DTH activities, a minimum of one PSO must be assigned to the active pile driving or DTH location to monitor the shutdown zones and as much of the Level B harassment zones as possible. For all pile driving and DTH activities, two additional PSOs are

required. The additional PSOs will start at the project site and travel along Tongass Narrows, counting all humpback whales present, until they have reached the edge of the respective harassment zone. At this point, the PSOs will identify suitable observation points from which to observe the width of Tongass Narrows for the duration of pile driving activities. For the largest DTH zones these are expected to be on South Tongass Highway near Mountain Point and North Tongass Highway just northwest of the intersection with Carlanna Creek. See application Figure 11–1 for map of PSO locations. If visibility deteriorates so that the entire width of Tongass Narrows at the harassment zone boundary is not visible, additional PSOs may be positioned so that the entire width is visible, or work will be halted until the entire width is visible to ensure that any humpback whales entering or within the harassment zone are detected by PSOs.

Acoustic Monitoring

While we are not requiring acoustic monitoring or sound source verification studies for this project because the construction equipment and pile types and sizes are common ones for which we have significant data, the applicant has requested the possibility of altering shutdown and/or harassment zones based on voluntary acoustic monitoring, so we have added our standard term for this to the IHA: The harassment and/or shutdown zones may be modified with NMFS' approval following NMFS' acceptance of an acoustic monitoring report.

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities, or 60 days prior to a requested date of issuance of any future IHAs for projects at the same location, whichever comes first. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.,* impact, vibratory or DTH) and the total equipment duration for vibratory removal or DTH for each pile or hole or total number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; Time of sighting; Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); Estimated number of animals (min/max/best estimate); Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.); Animal's closest point of approach and estimated time spent within the harassment zone; Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones, by species;
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any; and
- If visibility degrades to where the PSO(s) cannot view the entire impact or vibratory harassment zones, take of humpback whales will be extrapolated based on the estimated percentage of the monitoring zone that remains visible and the number of marine mammals observed.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to the Alaska Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, NOAA must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The IHA-holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29,

1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and removal and DTH activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated from pile driving and removal and DTH. Potential takes could occur if individuals are present in the ensonified zone when these activities are underway.

The takes from Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Mitigation section).

The Level A harassment zones identified in Table 5 are based upon an animal exposed to impact pile driving multiple piles per day. Considering the short duration to impact drive or vibe each pile and breaks between pile installations (to reset equipment and move pile into place), this means an animal would have to remain within the area estimated to be ensonified above the Level A harassment threshold for multiple hours. This is highly unlikely given marine mammal movement throughout the area. If an animal was exposed to accumulated sound energy, the resulting PTS would likely be small (*e.g.,* PTS onset) at lower frequencies where pile driving energy is concentrated, and unlikely to result in impacts to individual fitness, reproduction, or survival.

The nature of the pile driving project precludes the likelihood of serious injury or mortality. For all species and stocks, take would occur within a limited, confined area (adjacent to the project site) of the stock's range. Level A and Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. Further the amount of take proposed to be authorized is extremely small when compared to stock abundance.

Behavioral responses of marine mammals to pile driving at the project site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities (as noted during modification to the Kodiak Ferry Dock) or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day, any harassment would be temporary. There are no other areas or times of known biological importance for any of the affected species.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on the stocks' ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Authorized Level A harassment would be very small amounts and of low degree;
- No important habitat areas have been identified within the project area;
- For all species, Tongass Narrows is a very small and peripheral part of their range;
- NOAA would implement mitigation measures such as soft-starts, and shut downs; and
- Monitoring reports from similar work in Tongass Narrows have documented little to no effect on individuals of the same species impacted by the specified activities.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS authorizes is below one third of the estimated stock abundance for all species (in fact, take of individuals is less than 10 percent of the abundance of the affected stocks, see Table 6). This is likely a conservative estimate because we assume all takes are of different individual animals, which is likely not the case. Some individuals may return multiple times in a day, but PSOs would count them as separate takes if they cannot be individually identified. The Alaska stock of Dall's porpoise has no official NMFS abundance estimate for this area as the most recent estimate is greater than eight years old. Nevertheless, the most recent estimate was 83,400 animals and it is highly unlikely this number has drastically declined. Therefore, the 60 authorized takes of this stock clearly represent small numbers of this stock. Likewise, the Southeast Alaska stock of harbor porpoise has no official NMFS abundance estimate as the most recent estimate is greater than eight years old. Nevertheless, the most recent estimate was 11,146 animals (Muto *et al.,* 2021) and it is highly unlikely this number has drastically declined. Therefore, the 30 authorized takes of this stock clearly represent small numbers of this stock. There is no current or historical estimate of the Alaska minke whale stock, but there are known to be over 1,000 minke whales in the Gulf of Alaska (Muto *et al.,* 2018) so the 1 authorized take clearly represents small numbers of this stock.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Alaska Native hunters in the Ketchikan vicinity do not traditionally harvest cetaceans (Muto *et al.,* 2021). Harbor seals are the most commonly targeted marine mammal that is hunted by Alaska Native subsistence hunters within the Ketchikan area. In 2012 an estimated 595 harbor seals were taken for subsistence uses, with 22 of those occurring in Ketchikan (Wolfe *et al.,* 2013). This is the most recent data available. The harbor seal harvest per capita in both communities was low, at 0.02 for Ketchikan. ADF&G subsistence data for Southeast Alaska shows that from 1992 through 2008, plus 2012, from zero to 19 Steller sea lions were taken by Alaska Native hunters per year with typical harvest years ranging from zero to five animals (Wolfe *et al.,* 2013). In 2012, it is estimated 9 sea lions were taken in all of Southeast Alaska and only from Hoonah and Sitka. There are no known haulout locations in the project area. Both the harbor seal and the Steller sea lion may be temporarily displaced from the action area. However, neither the local population nor any individual pinnipeds are likely to be adversely impacted by the proposed action beyond noise-induced harassment or slight injury. The proposed project is anticipated to have no long-term impact on Steller sea lion or harbor seal populations, or their habitat no long term impacts on the availability of marine mammals for subsistence uses is anticipated.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from NOAA's proposed activities.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is authorizing take of Mexico DPS of humpback whales which are listed under the ESA. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to NOAA under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of Mexico DPS of humpback whales, and is not likely to destroy or adversely modify Mexico DPS of humpback whales critical habitat.

Authorization

NMFS has issued an IHA to NOAA for the potential harassment of small numbers of nine marine mammal species incidental to the NOAA Port Facility Project in Ketchikan, provided the previously mentioned mitigation, monitoring, and reporting requirements are followed.

Dated: February 3, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–02633 Filed 2–7–22; 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; Collection of High Resolution Spatial and Temporal Fishery To Support Scientific Research

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 October 29, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Collection of High Resolution Spatial and Temporal Fishery Dependent Data to Support Scientific Research.

OMB Control Number: 0648–XXXX.

Form Number(s): None.

Type of Request: Regular Submission (new information collection).

Number of Respondents: 39.

Average Hours per Response: 30 minutes to complete registration, and 35 minutes per day for vessels collecting trip level data.

Total Annual Burden Hours: 908.

Needs and Uses: Commercial fishers from the Northeast and Mid-Atlantic will collaborate with NOAA Fisheries, Northeast Fisheries Science Center (NEFSC) Cooperative Research Branch to voluntarily collect detailed fishery dependent data during commercial fishing trips. Collection of information regarding fishing for commercial

fisheries is necessary to fulfill the following statutory requirements: the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Fishers will use the Fisheries Logbook Data Reporting Software (FLDRS) to collect high resolution information on fishing effort and catch. The goal is to enable fishers to collect more accurate and precise data on where and how many fish are caught, and how much effort was expended. This high resolution data will lead to improved accuracy of commercial fisheries data and better understanding of fishery dynamics. The FLDRS software was designed to record data at the haul (effort) level, similar to the level of data collected by the Northeast Fisheries Observer Program (NEFOP) but can be used to collect sub trip level data and is approved for federal eVTR. FLDRS can be integrated with Global Positioning Systems (GPS), Vessel Monitoring Systems (VMS), depth sounders and temperature/depth sensors. The FLDRS software can use the VMS to transmit a trip data file to NEFSC email account where it is ultimately uploaded to NEFSC database. Alternatively, the vessel operator can choose to manually upload trip files using the web-based application Vessel Electronic Reporting Web Portal (VERS).

Temperature and Depth (TD) data will be collected opportunistically and dependent on fisher interest. TD probes will be used to monitor the duration of time gear is fished in addition to collecting temperature and depth data. The high resolution catch data in conjunction with temperature depth data can be used to validate oceanographic and habitat models to produce oceanographic and species density forecasts for fishers. These species specific density forecast can be used as a tool while fishing to maximize efficiency and avoid limited stocks.

By collecting these data, we are improving the data available to support improved understanding of population, ecosystem, and fishery dynamics in the northeast region. These improved understandings help the Northeast Fisheries Science Center inform management so they can meet the standards laid out in the Magnuson Stevens Act. Without working with the fishing industry to collect these data we are severely restricting our access to the best available data to support needed research that informs management decisions.

Affected Public: Business or other for-profit organizations.

Frequency: As needed.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson Stevens Act.

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 the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–02602 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB757]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Kitty Hawk Wind Marine Site Characterization Surveys, North Carolina and Virginia

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Kitty Hawk Wind for authorization to take marine mammals incidental to marine site characterization surveys offshore and in state waters of North Carolina. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than March 10, 2022.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to *ITP.Daly@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the

availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On August 16, 2021, NMFS received a request from Kitty Hawk Wind, a subsidiary of Avangrid Renewables (Avangrid), for an IHA to take marine mammals incidental to conducting marine site characterization surveys off of the Atlantic Coast. Kitty Hawk Wind's overall lease area (OCS–A 0508) is located approximately 44 kilometers (km) offshore of Corolla, North Carolina, in Federal waters. The proposed survey activities will occur within the wind development area (WDA) and along the electric cable corridor (ECC) to landfall locations in North Carolina and Virginia. The application was deemed adequate and complete on January 13, 2022. Kitty Hawk Wind's request is for take of a small number of seventeen species of marine mammals, by Level B harassment only. Neither Kitty Hawk Wind nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to Avangrid for similar work in the same geographic area on June 3, 2019 (84 FR 31032) with effectives dates from June 1, 2019 through May 31, 2020. Avangrid complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA and information regarding their monitoring results may be found in the Estimated Take section. Avangrid's final marine mammal monitoring report, dated January 7, 2021, submitted pursuant to that IHA can be found at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-avangrid-renewables-llc-marine-site-characterization-surveys.*

On July 21, 2021, NMFS issued another IHA to Kitty Hawk Wind for a short survey duration which was effective from July 23, 2021 through October 31, 2021. The reporting for that IHA will be submitted to NMFS prior to us making a final decision on the newly requested IHA.

Description of Proposed Activity

Overview

Kitty Hawk Wind is requesting an IHA authorizing the take, by Level B harassment only, of 17 species of marine mammals incidental to marine site characterization surveys, specifically in association with the use of high-resolution geophysical (HRG) survey equipment in the Atlantic Ocean off of North Carolina and Virginia (we note survey work extending into Virginia is very limited). Kitty Hawk will also conduct surveys in the inshore sounds of North Carolina, include Bogue, Pamlico, Albemarle, and Currituck Sounds (as part of the ECC); however, those surveys will use equipment operating at frequencies above 180 kHz (outside marine mammal hearing range) and therefore will not result in harassment to marine mammals. For this reasons, survey work in inshore sounds is not further analyzed in this notice.

The surveys will support offshore wind development in 60 percent of the Kitty Hawk South lease area (OCS–A 0508) in the northwest corner closest to the North Carolina shoreline (approximately 198 square kilometers (km^2)). Exposure to noise from the surveys may cause behavioral changes in marine mammals (*e.g.,* avoidance, increased swim speeds, etc.) rising to the level of take (Level B harassment) as defined under the MMPA.

In addition to Kitty Hawk South surveys, there will be a small amount of residual survey effort from the Kitty Hawk North WDA and ECC included in this survey effort due to previous inability to complete previous surveys as a result of unsuitable weather (Figure 1).

Dates and Duration

Kitty Hawk Wind plans to commence the surveys in April 2021 and continue for one year. Based on 24-hour operations, the estimated duration of the HRG survey activities (excluding those in inshore sounds) will be 273 vessel days which represents the sum of the total number of days each vessel operates (not calendar days). Kitty Hawk intends to complete the surveys prior to November 2022 to minimize impacts to migrating North Atlantic right whales; however, the analysis in the application and this proposed IHA considers the potential for work to occur year-round.

Specific Geographic Region

The majority of Kitty Hawk Wind's survey activities will occur within the Kitty Hawk South WDA (approximately 297 km^2 of the approximately 495 km^2 Lease Area) and along the offshore ECC (Figure 1). Kitty Hawk will also complete surveys along the Kitty Hawk North ECC (Figure 1) as poor weather prohibited completion of this work under the 2021 IHA. Water depths across the Survey Area range from shallow water areas (0 m) near the offshore ECC landfall to approximately 20 to 50 meters (m) in the Lease Area.

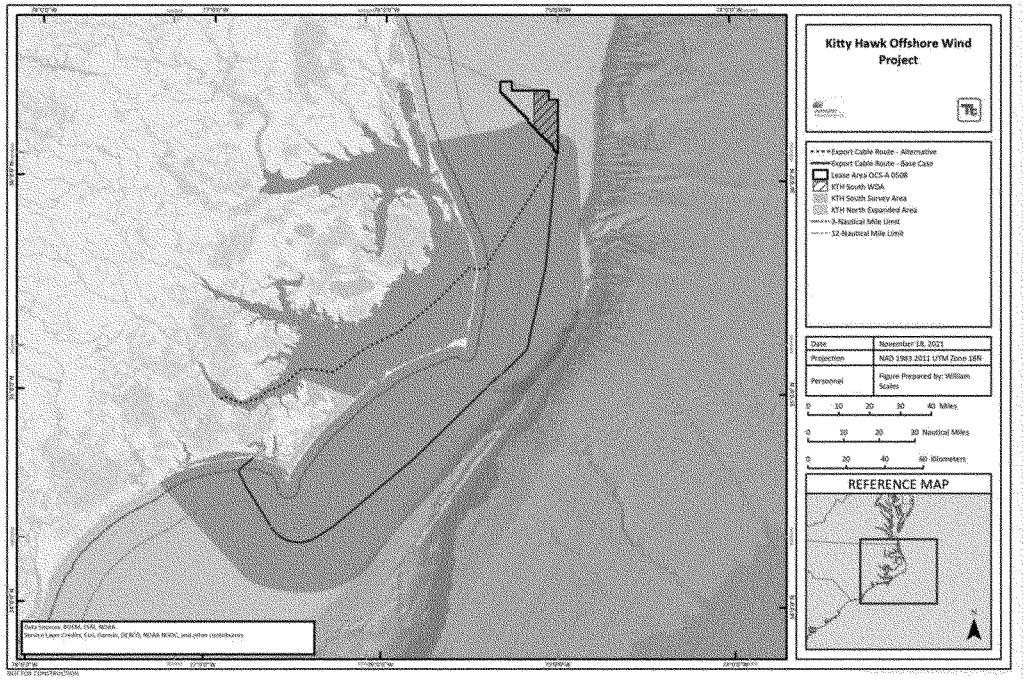

Figure 1: Project Area for the Marine Site Characterization Surveys Which Include the WDA and the Potential Submarine Cable Route Areas

Detailed Description of Specific Activity

Kitty Hawk Wind intends to eventually develop 60 percent of the southeast portion on the WDA. The purpose of Kitty Hawk Wind's marine site characterization surveys is to support the siting of the proposed wind turbine generators and offshore export cables, providing a more detailed understanding of the seabed and sub-surface conditions in the WDA and export cable corridor, support the development of the Construction and Operations Plan, and meet the Bureau of Ocean Energy Management's (BOEM) data quality guidelines for the HRG, archaeological, and benthic resources surveys.

HRG surveys are anticipated to commence no earlier than April 1, 2022, and finish in 273 vessel days, not including non-noise-generating days likely needed for weather down time. The survey activities will be supported simultaneously by three vessels, all capable of maintaining a survey speed of approximately 4 knots (7.4 kilometers per hour [km/hr]) while transiting survey lines. Vessels will maintain at least 2 km separation from each other at all times. Kitty Hawk Wind anticipates the surveys will be completed prior to November 2022; however, they have requested the IHA be effective for the entire year in case unexpected circumstances arise that necessitate surveying beyond November.

The surveys will cover approximately 50,211 line kms between the WDA, ECC, overlapping areas, and within several inshore sounds, including Bogue, Pamlico, Albemarle, and Currituck Sounds. During the surveys, Vessel A would initially collect data using the Multi-channel sparker (MCS) within the WDA. Two MCS options are currently under consideration, as noted in Table 1. Vessel A would then demobilize the MCS and remobilize data collection within both the WDA and ECC using the Triple Plate Boomer (boomer). Vessel A would also employ other equipment including the ultra-short baseline positioning system (USBL), sidescan sonar (SSS), shallow penetration parametric sub-bottom profiler (Innomar), and multibeam echo sounder (MBES). However, this equipment has a smaller disturbance zone than the MCS or boomer or has frequency ranges above 180 kHz, outside of the hearing range of marine mammals. Vessels B and C would perform data collection within both the WDA and ECC using the boomer. Table 1 provides vessel use and survey coverage details. However, all survey equipment within inshore bays and sounds would operate above 180 kHz which is outside of marine mammal hearing ranges; therefore, no harassment is anticipated to occur from these inshore surveys and this activity is not noted in Table 1 and will not be discussed further in this notice.

TABLE 1—SURVEY SEGMENT DETAILS

Vessel	Location and line kms	Predominant HRG source	Duration
Vessel A	WDA: 7,562 kms; ECC: 590	Multi-channel Seismic (Sparker)	WDA: 42 days; ECC: 4.
Vessel A	ECC Alternative A: 3,107 kms	Single Channel Seismic (Boomer)	17 days.
Vessel A	Expanded OECC: 5,843	Single Channel Seismic (Boomer)	33 days.
Vessel B	WDA/ECC: 15,715 kms	Single Channel Seismic (Boomer)	80 days.
Vessel C	ECC Base Case: 16,071 kms	Single Channel Seismic (Boomer)	96 days.

TABLE 1—SURVEY SEGMENT DETAILS—Continued

Vessel	Location and line kms	Predominant HRG source	Duration
Total			
5 vessels	48,888 km		273 days.

Acoustic sources planned for use during HRG survey activities proposed by Kitty Hawk Wind include the following:

• Medium penetration, impulsive sources (*i.e.,* boomers and sparkers) are used to map deeper subsurface stratigraphy. A boomer is a broadband source operating in the 3.5 Hz to 10 kHz frequency range. Sparkers create omnidirectional acoustic pulses from 50 Hz to 4 kHz. These sources are typically towed behind the vessel.

Operation of the following survey equipment types is not expected to present reasonable risk of marine mammal take, and will not be discussed further beyond the brief summaries provided below.

• Non-impulsive, parametric sub-bottom profilers (SBPs) are used for providing high data density in sub-bottom profiles that are typically required for cable routes, very shallow water, and archaeological surveys. These sources generate short, very narrow-beam (1° to 3.5°) signals at high frequencies (generally around 85–100 kHz). The narrow beamwidth significantly reduces the potential that a marine mammal could be exposed to the signal, while the high frequency of operation means that the signal is rapidly attenuated in seawater. These sources are typically deployed on a pole rather than towed behind the vessel.

• Ultra-short baseline (USBL) positioning systems are used to provide high accuracy ranges by measuring the time between the acoustic pulses transmitted by the vessel transceiver and a transponder (or beacon) necessary to produce the acoustic profile. It is a two-component system with a pole-mounted transceiver and one or several transponders mounted on other survey equipment. USBLs are expected to produce extremely small acoustic propagation distances in their typical operating configuration.

• Multibeam echosounders (MBESs) are used to determine water depths and general bottom topography. The proposed MBESs all have operating frequencies >180 kHz and are therefore outside the general hearing range of marine mammals.

• Side scan sonars (SSS) are used for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The proposed SSSs all have operating frequencies >180 kHz and are therefore outside the general hearing range of marine mammals.

Table 2 identifies all representative survey equipment proposed for use by Kitty Hawk Wind that has the potential to result in harassment to marine mammals. The make and model of the listed geophysical equipment may vary depending on availability and the final equipment choices will vary depending upon the final survey design, vessel availability, and survey contractor selection.

All decibel (dB) levels included in this notice are referenced to 1 micoPascal. The root mean square decibel level (dB_{rms}) represents the square root of the average of the pressure of the sound signal over a given duration. The peak dB level (dB_{peak}) represents the range in pressure between zero and the greatest pressure of the signal. Operating frequencies are presented in kilohertz (kHz).

TABLE 2—KITTY HAWK WIND HRG SOURCE CHARACTERISTICS

HRG system	Representative HRG survey equipment	Operating frequencies kilohertz (kHz)	Source level dB_{peak}	Source level dB_{rms}	Pulse duration (ms)	Beam width (degree)
Shallow penetration subbottom profiler.	EdgeTech 512i	0.4 to 12	[c] 186	[c] 180	1.8 to 65.8	51 to 80.
Medium penetration subbottom profiler [a].	Applied Acoustics SBoom 750J (Triple Plate Boomer).	0.9–14	[d] 206	[d] 198	0.8	30 [e].
Multi-channel Sparker (MCS) in flip/flop configuration [b].	Applied Acoustics Dura-Spark 1000J.	3.2	[f] 223	[f] 213	0.5 to 3 [f]	180.
Multi-channel Sparker (MCS) in flip/flop configuration.	GeoMarine Geo-Source 800J	0.05 to 5	215	206	5.5	180.

[a] While three operational powers (500/750/1000J) were modeled for the Applied Acoustics S-Boom for comparison purposes, only the 750 joules (J) operational power is anticipated to be used.
[b] Although the entire MCS array would be mobilized, the sparker sources would be activated in an alternating flip/flop sequence.
[c] The source levels are based on data from Crocker and Frantantonio (2016) for the EdgeTech 512i for 75 percent power with a bandwidth of 0.5 to 8 kHz.
[d] The source levels are based on data from Crocker and Frantantonio (2016) for the Applied Acoustics S-Boom for source setting of 750J.
[e] The beamwidth was provided in email correspondence with Neil MacDonald of Modulus Technology Ltd.
[f] The source levels are based on data from Crocker and Frantantonio (2016).

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-*

mammal-stock-assessments) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species or stocks that may occur within the survey area and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Atlantic and Gulf of Mexico SARs (*e.g.,* Hayes *et al.,* 2019, 2020). All values presented in Table 3 are the most recent available at the time of publication and are available in the draft 2021 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 3—SUMMARY INFORMATION OF SPECIES WITHIN THE PROPOSED SURVEY AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale	*Eubalaena glacialis*	Western North Atlantic	E/D; Y	368 (-; 356; 2020)	0.8	18.6
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-/-; Y	1,393 (0; 1,375; 2016)	22	58
Fin whale	*Balaenoptera physalus*	Western North Atlantic	E/D; Y	6,802 (0.24; 5,573; 2016)	11	2.35
Sei whale	*Balaenoptera borealis*	Nova Scotia	E/D; Y	6,292 (1.02; 3,098; 2016)	6.2	1.2
Minke whale	*Balaenoptera acutorostrata*	Canadian East Coast	-/-; N	21,968 (0.31; 17,002; 2016)	170	10.6
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Ziphiidae:						
Cuvier's beaked Whale	*Ziphius cavirostris*	Western North Atlantic	-/-; N	5,744 (0.36, 4,282, 2016)	43	0.2
Blainville's beaked Whale	*Mesoplodon densirostris*	Western North Atlantic	-/-; N	10,107 (0.27, 8,085, 2016)	81	0
True's beaked whale	*Mesoplodon mirus*	Western North Atlantic	-/-; N		81	0
Gervais' beaked whale	*Mesoplodon europaeus*	Western North Atlantic	-/-; N		81	0
Sowerby's beaked whale	*Mesoplodon bidens*	Western North Atlantic	-/-; N		81	0
Family Delphinidae:						
Long-finned pilot whale	*Globicephala melas*	Western North Atlantic	-/-; N	39,215 (0.30; 30,627; See SAR).	306	21
Short finned pilot whale	*Globicephala macrorhynchus*	Western North Atlantic	-/-;Y	28,924 (0.24; 23,637; 2016)	236	160
Bottlenose dolphin	*Tursiops truncatus*	Western North Atlantic Off-shore.	-/-; N	62,851 (0.23; 51,914, 2016)	519	28
		W.N.A. Southern Migratory Coastal.	-/-;Y	6,639 (0.41, 4,759, 2016)	48	12.2–21.5
Common dolphin	*Delphinus delphis*	Western North Atlantic	-/-; N	172,947 (0.21; 145,216; 2016)	1,452	399
Atlantic spotted dolphin	*Stenella frontalis*	Western North Atlantic	-/-; N	39,921 (0.27; 32,032; 2012)	320	0
Risso's dolphin	*Grampus griseus*	Western North Atlantic	-/-; N	35,493 (0.19; 30,289; 2016)	303	54.3
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-/-; N	95,543 (0.31; 74,034; 2016)	851	217

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

As indicated above, all 17 species (with 18 managed stocks) in Table 3 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. In addition to what is included in Sections 3 and 4 of the application, the SARs, and NMFS' website, further detail informing the baseline for select species (*i.e.,* information regarding current Unusual Mortality Events (UME) and important habitat areas) is provided below. We also provide a brief summary of sighting data from Kitty Hawk.

North Atlantic Right Whale

The North Atlantic right whale is considered one of the most critically endangered populations of large whales in the world and has been listed as a Federal endangered species since 1970. The Western Atlantic stock is considered depleted under the MMPA (Hayes et al. 2021). There is a recovery plan (NOAA Fisheries 2017) for the right whale and recently there was a five-year review of the species (NOAA Fisheries 2017). The right whale had a 2.8 percent recovery rate between 1990 and 2011 (Hayes et al. 2021).

Elevated North Atlantic right whale mortalities have occurred since June 7, 2017, along the U.S. and Canadian coast. This event has been declared an UME, with human interactions, including entanglement in fixed fishing gear and vessel strikes, implicated in at least 15 of the mortalities thus far. As of January 26, 2021, a total of 34 confirmed dead stranded whales (21 in Canada; 13 in the United States) have been documented. The cumulative total number of animals in the North Atlantic right whale UME has been updated to 50 individuals to include both the confirmed mortalities (dead stranded or floaters) (n=34) and seriously injured free-swimming whales (n=16) to better reflect the confirmed number of whales likely removed from the population during the UME and more accurately reflect the population impacts. More information is available online at: *www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-north-atlantic-right-whale-unusual-mortality-event.*

The offshore waters of North Carolina, including waters of the Survey Area, are used as part of the migration corridor for right whales. Right whales occur here during seasonal movements north or south between their feeding and breeding grounds (Firestone et al. 2008; Knowlton et al. 2002). Right whales have been observed in or near North Carolina waters from October through December, as well as in February and March, which coincides with the migratory timeframe for this species (Knowlton et al. 2002). They have been acoustically detected off Georgia and North Carolina in 7 of 11 months monitored (Hodge et al. 2015) and other recent passive acoustic studies of right whales off the Virginia coast demonstrate their year-round presence in Virginia (Salisbury et al. 2018), with increased detections in fall and late winter/early spring. They are typically most common in the spring (late March) when they are migrating north and, in the fall (*i.e.,* October and November) during their southbound migration (NOAA Fisheries 2017).

Seasonal management areas (SMA) are designated within portions of the proposed survey area. A SMA exists from November 1 through April 30, annually, in a contiguous area 20 nautical miles (nm; 37 km) from shore between Wilmington, North Carolina to Brunswick, Georgia. A SMA also exists for the same time period within a 20-nm (37 km) radius of the Ports of Hampton Roads and Morehead City/Beaufort, NC. While the WDA does not overlap with these SMAs, vessel transit routes and portions of the ECCs that will be surveyed do spatially overlap with these SMAs. Kitty Hawk intends to complete the surveys before November 1, 2022. However, we assume that the surveys may extend throughout the year in our analyses. The implementing regulations identifying SMAs (50 CFR 224.105) also establish a process under which dynamic management areas (DMAs) can be established based on North Atlantic right whale sightings. NMFS has established a Slow Zone program in 2020 that notifies vessel operators of areas where maintaining speeds of 10 knots or less can help protect right whales from vessel collisions. Right Whale Slow Zones are established around areas where right whales have been recently seen or heard; these areas are identical to DMAs when triggered by right whale visual sightings but they can also be established when right whale detections are confirmed from acoustic receivers. More information on SMAs, DMAs, and Slow Zones can be found at *https://www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-vessel-strikes-north-atlantic-right-whales#:~:text=Right%20Whale%20Slow%20Zones%20is,right%20whales%20have%20been%20detected.*

In 2020, NMFS finalized a report evaluating the conservation value and economic and navigational safety impacts of the 2008 North Atlantic right whale vessel speed regulations. The report evaluates four aspects of the right whale vessel speed rule: Biological efficacy, mariner compliance, impacts to navigational safety, and economic cost to mariners. NMFS continues to evaluate its North Atlantic right whale vessel strike reduction programs, both regulatory and non-regulatory. NMFS anticipates releasing a proposed rule modifying the right whale speed regulations in Spring 2022 to further address the risk of mortality and serious injury from vessel collisions in U.S. waters.

The proposed survey area is also recognized as a migratory corridor Biologically Important Area (BIA) for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LeBrecque *et al.,* 2015). This important migratory area is approximately 269,488 km^2 in and is comprised of the waters of the continental shelf offshore the East Coast of the United States, extending from Florida through Massachusetts. No critical habitat is designated within the survey area.

Humpback Whale

Humpback whales are found worldwide in all oceans. Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62259; September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the survey area.

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine to Florida. Partial or full necropsy examinations have been conducted on approximately half of the 155 known cases. Of the whales examined, about 50 percent had evidence of human interaction, either ship strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. Three previous UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006. More information is available at: *www.fisheries.noaa.gov/national/marine-life-distress/2016-2021-humpback-whale-unusual-mortality-event-along-atlantic-coast.*

Minke Whale

Minke whales can be found in temperate, tropical, and high-latitude waters. The Canadian East Coast stock can be found in the area from the western half of the Davis Strait (45° W) to the Gulf of Mexico (Hayes et al., 2020). This species generally occupies waters less than 100 m deep on the continental shelf. Little is known about minke whales' specific movements through the mid-Atlantic region; however, there appears to be a strong seasonal component to minke whale distribution, with acoustic detections indicating that they migrate south in

mid-October to early November, and return from wintering grounds starting in March through early April (Hayes *et al.,* 2020). Northward migration appears to track the warmer waters of the Gulf Stream along the continental shelf, while southward migration is made farther offshore (Risch *et al.,* 2014). During Kitty Hawk Wind's 2019 and 2020 marine site characterization surveys, one minke whale was detected, this detection occurred while the vessel was in transit and located north of the project area off New Jersey.

Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina, with a total of 122 strandings recorded through December 2021. This event has been declared a UME. Full or partial necropsy examinations were conducted on more than 60 percent of the whales. Preliminary findings in several of the whales have shown evidence of human interactions or infectious disease, but these findings are not consistent across all of the whales examined, so more research is needed. More information is available at: *www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-minke-whale-unusual-mortality-event-along-atlantic-coast.*

Marine Mammal Habitat

The survey area primarily includes waters inshore and offshore of North Carolina with a very small amount of work extending into southern Virginia. As described above, a migratory BIA for North Atlantic right whales is recognized within the project area in November through December and March through April. This BIA extends along the entire east coast. A calving BIA is located south of the WDA and potential cable corridors; therefore, no impacts to this BIA are anticipated.

No other BIAs are recognized nor is critical habitat designated in the project area; however, the project area is a migratory corridor for other large whale species (*e.g.,* humpback whales) and offers habitat for various activities such as socializing and foraging for smaller cetaceans such as delphinids.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Seventeen marine mammal species (all cetaceans) have the reasonable potential to be taken by the survey activities (Table 5). Of the cetacean species that may be present, 5 are classified as low-frequency cetaceans (*i.e.,* all mysticete species), 11 are classified as mid-frequency cetaceans (*i.e.,* all delphinid species), 1 is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary of the ways that Kitty Hawk Wind's specified activity may impact marine mammals and their habitat. Detailed descriptions of the potential effects of similar specified activities have been provided in other recent **Federal Register** notices, including for survey activities using the same methodology and over a similar amount of time (*e.g.,* 85 FR 37848, June 24, 2020; 85 FR 45578, July 29, 2020; 85 FR 48179, August 10, 2020; 86 FR 11239, February 24, 2021, 86 FR 28061, May 25, 2021). No significant new information is available, and we refer the reader to these documents rather than repeating the details here. The Estimated Take section includes a quantitative analysis of the number of individuals that are expected to be taken by Kitty Hawk Wind's activity. The Negligible Impact Analysis and Determination section considers the potential effects of the specified activity, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts

on individuals are likely to impact marine mammal species or stocks.

Summary on Specific Potential Effects of Acoustic Sound Sources

Underwater sound from active acoustic sources can include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking. The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007).

Animals in the vicinity of Kitty Hawk Wind's proposed HRG survey activity are unlikely to incur even TTS due to the characteristics of the sound sources, which include relatively low source levels (176 to 205 dB re 1 μPa-m) and generally very short pulses and potential duration of exposure. These characteristics mean that instantaneous exposure is unlikely to cause TTS, as it is unlikely that exposure would occur close enough to the vessel for received levels to exceed peak pressure TTS criteria, and that the cumulative duration of exposure would be insufficient to exceed cumulative sound exposure level (SEL) criteria. Even for high-frequency cetacean species (*e.g.,* harbor porpoises), which have the greatest sensitivity to potential TTS, individuals would have to make a very close approach and also remain very close to vessels operating these sources in order to receive multiple exposures at relatively high levels, as would be necessary to cause TTS. Intermittent exposures—as would occur due to the brief, transient signals produced by these sources—require a higher cumulative SEL to induce TTS than would continuous exposures of the same duration (*i.e.,* intermittent exposure results in lower levels of TTS). Moreover, most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range. Further, the restricted beam shape of many of HRG survey devices planned for use (Table 1) makes it unlikely that an animal would be exposed more than briefly during the passage of the vessel.

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal.

In addition, sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. Marine mammal communications would not likely be masked appreciably by the acoustic signals given the directionality of the signals for most HRG survey equipment types planned for use (Table 1) and the brief period when an individual mammal is likely to be exposed.

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton) (*i.e.,* effects to marine mammal habitat). Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. The most likely impacts (if any) for most prey species in a given area would be temporary avoidance of the area. Surveys using active acoustic sound sources move through an area relatively quickly, limiting exposure to multiple pulses. In all cases, sound levels would return to ambient once a survey ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly. Finally, the HRG survey equipment will not have significant impacts to the seafloor and does not represent a source of pollution.

Vessel Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. These interactions are typically associated with large whales, which are less maneuverable than are smaller cetaceans or pinnipeds in relation to large vessels. Ship strikes generally involve commercial shipping vessels, which are generally larger and of which there is much more traffic in the ocean than geophysical survey vessels. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4–5 knots. At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are so low as to be discountable. At average transit speed for geophysical survey vessels, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again low given the smaller size of these vessels and generally slower speeds. Notably in the Jensen and Silber study, no strike incidents were reported for geophysical survey vessels during that time period.

The potential effects of Kitty Hawk Wind's specified survey activity are expected to be limited to Level B behavioral harassment. No permanent or temporary auditory effects, or significant impacts to marine mammal habitat, including prey, are expected.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to noise from certain HRG acoustic sources. Based primarily on the characteristics of the signals produced by the acoustic sources planned for use, Level A harassment is neither anticipated (even absent mitigation), nor proposed to be authorized. Consideration of the anticipated effectiveness of the mitigation measures (*i.e.,* exclusion zones and shutdown measures), discussed in detail below in the Proposed Mitigation section, further strengthens the conclusion that Level A harassment is not a reasonably anticipated outcome of the survey activity. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 μPa (rms) for the impulsive sources (*i.e.,* sparkers and boomers) evaluated here for Kitty Hawk Wind's proposed activity.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). For more information, see NMFS' 2018 Technical Guidance, which may be accessed at *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

Kitty Hawk Wind's proposed activity includes the use of impulsive sources. However, as discussed above, NMFS has concluded that Level A harassment is not a reasonably likely outcome for marine mammals exposed to noise through use of the sources proposed for use here, and the potential for Level A harassment is not evaluated further in this document. Please see Kitty Hawk Wind's application for details of a quantitative exposure analysis exercise, *i.e.,* calculated Level A harassment isopleths and estimated Level A harassment exposures. Kitty Hawk Wind did not request authorization of take by Level A harassment, and no take by Level A harassment is proposed for authorization by NMFS.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Sources that have the potential to result in marine mammal harassment include sparkers and boomers. These are impulsive sources. The basis for the HRG survey take estimate is the number of marine mammals that would be exposed to sound levels in excess of Level B harassment criteria for impulsive and/or intermittent noise (160 dBrms). Distances to thresholds were calculated assuming a propagation loss rate of 15logR, also known as practical spreading. The resulting distances to NMFS Level B harassment isopleth (160 dBrms) are presented in Table 5.

Kitty Hawk then considered track line coverage and isopleth distance to estimate the maximum ensonified area over a 24-hr period, also referred to as the zone of influence (ZOI). The estimated distance of the daily vessel track line was determined using the estimated average speed of the vessel (4 knots [7.4 km/hr]) and the 24-hour operational period. Within each survey segment, the ZOI was calculated using the respective maximum distance to the Level B harassment threshold and estimated daily vessel track of 177.792 km. During the use of the Applied Acoustics Dura-Spark 1000J MCS, estimates of take have been based on a maximum Level B harassment distance of 445 m from the sound source resulting in an ensonified area (*i.e.,* ZOI) around the survey equipment of 158.857 km^2 per day over a projected survey period of 45 days (Table 5). During the use of Applied Acoustics S-Boom (boomer), estimates of take have been based on a maximum Level B harassment distance of 13.49 m from the sound source resulting in an ensonified area (*i.e.,* ZOI) around the survey equipment of 4.765 km^2 per day over a projected survey period of 273 days (Table 5).

The ZOI is a representation of the maximum extent of the ensonified area around a sound source over a 24-hr period. The ZOI was calculated per the following formula:

$$ZOI = (Distance/day \times 2r) + \pi r^2$$

TABLE 5—LEVEL B HARASSMENT THRESHOLD DISTANCES AND ENSONIFIED AREA

Dominant survey equipment	Number of active survey days	Estimated total line distance (km)	Estimated distance per day (km)	Distance to threshold	ZOI per day (km^2)
MCS	47	8,152	177.792	445	158.857
Boomer	226	42,059	.....	13.4	4.765

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.,* 2016, 2017, 2018, 2020) represent the best available information regarding marine mammal densities in the survey area. The density data presented by Roberts *et al.* (2016, 2017, 2018, 2020) incorporates aerial and shipboard line-transect survey data from NMFS and other organizations and incorporates data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.,* 2016). In subsequent years, certain models have been updated based on additional data as well as certain methodological improvements. More information is available online at *https://seamap.env.duke.edu/models/Duke/EC/.* Marine mammal density estimates in the survey area (animals/km^2) were obtained using the most recent model results for all taxa (Roberts *et al.,* 2016, 2017, 2018, 2020). The updated models incorporate additional sighting data, including sightings from NOAA's Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys.

Monthly density grids (*e.g.,* rasters) for each species were overlain with the Survey Area and values from all grid cells that overlapped the Survey Area were averaged to determine monthly mean density values for each species. Monthly mean density values within the Survey Area were averaged by season (Winter [December, January, February], Spring [March, April, May], Summer [June, July, August], Fall [September, October, November]) to provide seasonal density estimates. Within each survey segment (WDA and offshore export cable corridor), the highest seasonal density estimates during the duration of the proposed survey were used to estimate take.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

For most species, the proposed take amount is equal to the calculated take amount resulting from the following equation: $D \times ZOI \times d$ where d equals the number of days each source is dominant (*i.e.,* 47 days for the sparker and 226 days for the boomer). We note the densities provided in Table 5 represent the number of animals/100 km; therefore, the density is normalized to 1km in the equation. However, for some species, this equation does not reflect those species that can travel in large groups—an important parameter to consider that is not captured by density values. The equation also does not capture the propensity of some delphinid species to be attracted to the vessel and bowride. Therefore, to account for these real-world situations, the proposed take is a product of group size. For large groups of spotted and common dolphins knowing their affinity for bow riding (and therefore coming very close to the vessel), Kitty Hawk Wind assumed one group could be taken each day of sparker and/or boomer operations (273). Based on marine mammal sighting data collected during previous survey efforts, as described in Avangrid's previous monitoring report, Kitty Hawk Wind assumes an average group size for spotted dolphins is 16 in the survey area. For common dolphins, the overall average reported group size was 4 in all survey areas but the average group size during prior geotechnical surveys was 17 individuals. For Risso's dolphin and pilot whales, average group size for these species are 25 and 20, respectively (Reeves *et al.* 2002).

For bottlenose dolphin densities, Roberts et al. (2016a, 2016b, 2017, 2018, 2020) does not differentiate by individual stock. The WDA is located within depths exceeding 20 m. Therefore, given the southern coastal migratory stock propensity to be found shallower than the 20 m depth isobath north of Cape Hatteras (Reeves et al. 2002; Waring et al. 2016), take of the southern coastal migratory stock would be unlikely. Therefore, all work in the WDA was allocated to the offshore stock.

Table 6 provides the total amount of take calculated and proposed to be authorized in the IHA. For details of take per survey segment, please see Table 8 in Kitty Hawk's application.

TABLE 6—MARINE MAMMAL DENSITY AND TAKE ESTIMATES

Species	Stock	Calculated take	Proposed take	Percent of population
N Atlantic right whale	Western North Atlantic	2	2	<1
Humpback whale	Gulf of Maine	15	15	<1
Fin whale	Western North Atlantic	18	18	<1
Sei whale	Western North Atlantic	1	1	.....
Minke whale	Canadian East Coast	22	22	<1
Pilot whales	Western North Atlantic	32	32	<1
Cuvier's Beaked Whale	Western North Atlantic	5	5	<1
Mesoplodon spp.	Western North Atlantic	3	3	<1
Bottlenose dolphin	Western North Atlantic, offshore	823	823	<1
Bottlenose dolphin	Western North Atlantic southern migratory coastal	226	226	6.0
Common dolphin [a]	Western North Atlantic	365	9,282	5.3
Atlantic spotted dolphin [a]	Western North Atlantic	418	8,736	<1

TABLE 6—MARINE MAMMAL DENSITY AND TAKE ESTIMATES—Continued

Species	Stock	Calculated take	Proposed take	Percent of population
Risso's dolphin [a]	Western North Atlantic	8	25	<1
Rough-toothed dolphin [a]	Western North Atlantic	1	20	14.7
Harbor porpoise	Gulf of Maine/Bay of Fundy	39	39	<1

[a] Multiplier applied to increase calculated take to account for two large group size, an average pod size of 16 individuals encountered in Survey Area (Milne 2019, 2021) has been included for spotted dolphin and 17 individuals have also been included for common dolphin (Milne 2019, 2021). Pod size adjustments of 25 and 20 individuals (average pod size from Reeves et al. [2002]) have been included for Risso's and rough-toothed dolphins, respectively.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

Mitigation for Marine Mammals and Their Habitat

NMFS proposes that the following mitigation measures be implemented during Kitty Hawk Wind's planned marine site characterization surveys.

Pre-Clearance of the Shutdown Zones

Kitty Hawk Wind would implement a 30-minute monitoring period of the clearance zones prior to the initiation of ramp-up of HRG equipment. During this period, the clearance zone will be monitored by the protected species observers (PSOs), using the appropriate visual technology. Ramp-up may not be initiated if any marine mammal(s) is within its respective zone. If a marine mammal is observed within the clearance zone during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting its respective clearance zone or until an additional time period has elapsed with no further sighting (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for all other species).

Ramp-Up

Where technically feasible (*e.g.,* equipment is not on a binary on/off switch), a ramp-up procedure will be used for HRG survey equipment capable of adjusting energy levels at the start or restart of HRG survey activities. A ramp-up would begin with the power of the smallest acoustic equipment at its lowest practical power output appropriate for the survey. When technically feasible the power would then be turned up and other acoustic sources added in a way such that the source level would increase gradually. Ramp-up activities not begin if a marine mammal(s) enters a clearance zone(s) prior to initiating ramp-up. Ramp-up will commence when the animal has been observed exiting the exclusion zone or until an additional time period has elapsed with no further sighting (*i.e.,* 15 minutes for small dolphins and seals and 30 minutes for all other marine mammal species). The ramp-up procedure will be used at the beginning of HRG survey activities to provide additional protection to marine mammals near the survey area by allowing them to vacate the area prior to the commencement of survey equipment use.

Marine Mammal Shutdown Zones

An immediate shutdown of a sparker or boomer would be required if a marine mammal is sighted entering or within its respective exclusion zone. The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement between the Lead PSO and vessel operator should be discussed only after shutdown has occurred. Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective exclusion zone or 30 minutes has passed without subsequent detection of a large whale or 15 minutes for a smaller cetacean or seal. Table 6 provides the required shutdown zones.

TABLE 6—CLEARANCE AND SHUTDOWN ZONES DURING SPARKER AND BOOMER USE

Species	Clearance zone (m)	Shutdown zone (m)
North Atlantic right whale	500	500
All other ESA-listed marine mammals	500	450
Non-ESA marine mammals [1]	100	100

[1] Shutdown is not required for a delphinid from specified genera *Delphinus, Stenella* (*frontalis* only), and *Tursiops.*

Shutdown Procedures

The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement between the Lead PSO and vessel operator should be discussed only after shutdown has occurred. Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective shutdown zone or the relevant time period has lapsed without re-detection (15 minutes for small odontocetes and seals, and 30 minutes for all other species).

The shutdown requirement would be waived for small delphinids of the following genera: *Delphinus, Stenella* (*frontalis* only), and *Tursiops.* Furthermore, if there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgement in making the decision to call for a shutdown. Additionally, shutdown is required if a delphinid detected in the exclusion zone and belongs to a genus other than those specified.

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for less than 30 minutes, it may be activated again only if the PSOs have maintained constant observation and the shutdown zone is clear of marine mammals. If the source is turned off for more than 30 minutes, it may only be restarted after PSOs have cleared the shutdown zones for 30 minutes.

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (445 m), shutdown would be required.

Vessel Strike Avoidance

Kitty Hawk Wind will ensure that vessel operators and crew maintain a vigilant watch for marine mammals and slow down or stop their vessels to avoid striking these species. All personnel responsible for navigation and marine mammal observation duties will receive site-specific training on marine mammals sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures would include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone based on the appropriate separation distance around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal;
- All vessel operators will monitor the North Atlantic Right Whale Reporting Systems (*e.g.,* the Early Warning System, Sighting Advisory System, and Mandatory Ship Reporting System) daily throughout the entire survey period for the presence of North Atlantic right whales during activities conducted in support of plan submittal;
- All vessel operators will comply with the 10 knot (18.5 km/hr) or less speed restrictions when operating in any SMA from November 1 through April 30;
- All vessels, regardless of size, must observe a 10-knot speed restriction in a North Atlantic right whale DMA;
- All survey vessels will maintain a separation distance of 500 m or greater from any sighted North Atlantic right whale or other ESA-listed whale;
- If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 100 m to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m;
- All vessels will maintain a separation distance of 100 m or greater from any sighted non-delphinid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinid cetacean has moved out of the vessel's path and beyond 100 m;
- All vessel operators will comply with 10 knot (18.5 km/hr) or less speed restrictions when mother/calf pairs, pods, or large assemblages of non-delphinid cetaceans are observed near an underway vessel;
- All vessels will maintain a separation distance of 50 m or greater from any sighted delphinid cetacean and pinniped. Any vessel underway will remain parallel to a sighted delphinid cetacean or pinniped's course whenever possible and avoid excessive speed or abrupt changes in direction. Any vessel underway reduces vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinid cetaceans are observed. Vessels may not adjust course and speed until the delphinid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;
- All vessels underway will not divert or alter course in order to approach any marine mammal. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped;
- All vessels must reduce their speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel underway;
- All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action;
- All vessels must maintain a minimum separation distance of 100 m from or greater from any sighted non-delphinid cetacean;
- All vessels shall attempt to maintain a separation distance of 50 m or greater from any sighted delphinid cetacean and pinniped, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel); and
- When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear

or any vessel that is navigationally constrained.

These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Project-specific training will be conducted for all vessel crew prior to the start of a survey and during any changes in crew such that all survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. Prior to implementation with vessel crews, the training program will be provided to NMFS for review and approval. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew member understands and will comply with the necessary requirements throughout the survey activities. In addition to the aforementioned measures, Kitty Hawk will abide by all marine mammal relevant conditions in the Greater Atlantic Regional Office's (GARFO) informal programmatic consultation, dated June 29, 2021 (revised September 2021), pursuant to section 7 of the ESA. These include the relevant best management practices of project design criteria (PDCs) 4, 5, and 7.

Based on our evaluation of Kitty Hawk Wind's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the planned survey area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Monitoring Measures

Visual monitoring will be performed by qualified, NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Kitty Hawk Wind would employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for their designated task.

The PSOs will be responsible for monitoring the waters surrounding each survey vessel to the farthest extent permitted by sighting conditions, including exclusion zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established exclusion zones during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

During all HRG survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty during daylight operations on each survey vessel, conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). Two PSOs will be on watch during nighttime operations. The PSO(s) would ensure 360° visual coverage around the vessel from the most appropriate observation posts and would conduct visual observations using binoculars and/or night vision goggles and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 2 hours between watches and may conduct a maximum of 12 hours of observation per 24-hour period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all nearby survey vessels.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to exclusion zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, night-vision goggles with thermal clip-ons and infrared technology would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.,* daylight hours; Beaufort sea state 3 or less), to the maximum extent practicable, PSOs would also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources. Any observations of marine mammals by crew members aboard any vessel associated with the survey would be relayed to the PSO team.

Data on all PSO observations would be recorded based on standard PSO collection requirements. This would include dates, times, and locations of

survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal behavior that occurs (*e.g.,* noted behavioral disturbances).

Reporting Measures

Within 90 days after completion of survey activities or expiration of this IHA, whichever comes sooner, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals observed during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. All draft and final marine mammal and acoustic monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Daly@noaa.gov.* The report must contain at minimum, the following:

- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions);
- Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-clearance survey, ramp-up, shutdown, end of operations, etc.).

If a marine mammal is sighted, the following information should be recorded:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach and/or closest distance from the center point of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other);
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

Although not anticipated, if a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, Kitty Hawk Wind must immediately report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System: (866) 755–6622. North Atlantic right whale sightings in any location must also be reported to the U.S. Coast Guard via channel 16.

In the event that Kitty Hawk Wind personnel discover an injured or dead marine mammal, Kitty Hawk Wind would report the incident to the NMFS Office of Protected Resources (OPR) and the NMFS Southeast Marine Mammal Stranding Network (1–877–942–5343) if the sighting is in North Carolina or the Northeast Stranding Network (1–866–755–6622) if the sighting is in Virginia as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in the activities covered by the IHA, Kitty Hawk Wind would report the incident to the NMFS OPR and the NMFS Southeast Marine Mammal Stranding Network (1–877–942–5343) if the sighting is in North Carolina or the Northeast Stranding Network (1–866–755–6622) if the sighting is in Virginia as soon as feasible but within 24 hours. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and

• To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 6, given that NMFS expects the anticipated effects of the survey to be similar in nature. Where there are meaningful differences between species or stocks—as is the case of the North Atlantic right whale—they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious injury or mortality is proposed to be authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section above, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. As described above, Level A harassment is not expected to occur given the nature of the operations, the estimated size of the Level A harassment zones, and the required shutdown zones for certain activities.

In addition to being temporary, the maximum expected harassment zone around a survey vessel from sparker use is 445 m and 13 m from boomer use. The ensonified area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as the impacts of the surveys are limited to very small areas around each vessel, prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the survey area and there are no feeding areas known to be biologically important to marine mammals within the survey area. There is no designated critical habitat for any ESA-listed marine mammals in the survey area.

North Atlantic Right Whales

The status of the North Atlantic right whale population is of heightened concern and, therefore, merits additional analysis. As discussed in the notice of proposed IHA (86 FR 17783; April 6, 2021), elevated North Atlantic right whale mortalities began in June 2017 and there is an active UME. Overall, preliminary findings support human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of right whales. As noted previously, the survey area overlaps a migratory corridor BIA for North Atlantic right whales. Due to the fact that the survey activities are temporary and the spatial extent of sound produced by the survey will be very small relative to the spatial extent of the available migratory habitat in the BIA, right whale migration is not expected to be impacted by the survey. Given the relatively small size of the ensonified area, it is unlikely that prey availability would be adversely affected by Kitty Hawk Wind's proposed survey operations. Required vessel strike avoidance measures would also decrease risk of ship strike during migration; no ship strike is expected to occur during Kitty Hawk Wind's proposed activities. Additionally, only very limited take by Level B harassment of North Atlantic right whales has been requested and is proposed to be authorized by NMFS as Kitty Hawk Wind's proposed survey operations would be required to maintain a shutdown zone of 500 m if a North Atlantic right whale is observed. The 500 m shutdown zone for right whales is conservative, considering the Level B harassment isopleth for the most impactful acoustic source (*i.e.,* sparker—which would not be used on all survey days) is estimated to be 445 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the characteristics of the signals produced by the acoustic sources planned for use; this finding is further enforced by the proposed mitigation measures. NMFS does not anticipate North Atlantic right whales takes that would result from Kitty Hawk Wind's activities would impact annual rates of recruitment or survival. Thus, any takes that occur will not result in population level impacts.

Other Marine Mammal Species With Active UMEs

As discussed above, there are several active UMEs occurring in the vicinity of Kitty Hawk Wind's survey area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or DPS) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales.

The proposed mitigation measures are expected to reduce the number and/or severity of takes for all species listed in Table 6, including those with active UMEs, to the level of least practicable adverse impact. In particular they would provide animals the opportunity to move away from the sound source throughout the survey area before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment. No Level A harassment is anticipated, even in the absence of mitigation measures, or proposed for authorization.

NMFS expects that takes will be in the form of short-term Level B behavioral harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals will only be exposed briefly to a small ensonified area that might result in take. Additionally, the proposed mitigation measures would further reduce exposure to sound that could result in more severe behavioral harassment.

In summary and as described above, the following factors preliminarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or proposed to be authorized;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or proposed to be authorized;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the planned survey to avoid exposure to sounds from the activity;
- Take is anticipated to be by Level B behavioral harassment only consisting of brief startling reactions and/or temporary avoidance of the survey area;
- While the survey area is within areas noted as a migratory BIA for North Atlantic right whales, the activities will occur in such a comparatively small area such that any avoidance of the survey area due to activities will not affect migration. In addition, the requirement to shut down at 500 m to minimize potential for Level B behavioral harassment would limit the effects of the action on migratory behavior of the species; and
- The proposed mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities. For this IHA, take of all species or stocks is below one third of the estimated stock abundance (in fact, take of individuals is less than 7 percent of the abundance for all affected stocks).

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take, by Level B harassment only, of North Atlantic right whales fin whales, and sei whales which are listed under the ESA. On June 29, 2021 (revised September 2021), GARFO completed an informal programmatic consultation on the effects of certain site assessment and site characterization activities to be carried out to support the siting of offshore wind energy development projects off the U.S. Atlantic coast. Part of the activities considered in the consultation are geophysical surveys such as those proposed by Kitty Hawk Wind and for which we are proposing to authorize take. GARFO concluded site assessment surveys are not likely to adversely affect endangered species or adversely modify or destroy critical habitat. NMFS has determined issuance of the IHA is covered under the programmatic consultation; therefore, ESA consultation has been satisfied.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Kitty Hawk Wind for conducting marine site characterization surveys off the coast of North Carolina and Virginia, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed marine site characterization surveys. We also request at this time comment on the potential Renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA);
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: February 2, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–02573 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB784]

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 Mid-Atlantic Fishery Management Council (Council) will hold a public meeting of its Mackerel, Squid, and Butterfish Advisory Panel. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Wednesday, February 23, 2022, from 9 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, 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.

SUPPLEMENTARY INFORMATION: The Council's Mackerel, Squid, and Butterfish Advisory Panel will meet via webinar. The purpose of this meeting is for the Advisory Panel to develop fishery performance reports (FPRs) for *Illex* squid and Atlantic mackerel. The intent of the FPR is to facilitate structured input from the Advisory Panel on recent fishery performance. The FPR will be considered as 2022 *Illex* specifications are reviewed and as mackerel rebuilding revisions are considered.

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: February 3, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–02609 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB786]

Marine Mammals; File No. 26345

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Sealight Pictures, 51A Seaview St, Balgowlah, Sydney NSW 2093 Australia (Responsible Party: Adam Geiger), has applied in due form for a permit to conduct commercial photography on pinnipeds.

DATES: Written, telefaxed, or email comments must be received on or before March 10, 2022.

ADDRESSES: These documents are available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26345 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film pinnipeds on Monomoy Island and the Isle of Shoals for a documentary film showcasing the Cape Cod, Massachusetts region. The applicant proposes to film up to 30 gray seals (*Halichoerus grypus*) and 20 harbor seals (*Phoca vitulina*) annually. Seals may be filmed from land, a vessel, an

unmanned aircraft system, and underwater via divers. The permit would be valid for two years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 2, 2022.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–02572 Filed 2–7–22; 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; Licensing of Private Remote-Sensing Space Systems

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 April 11, 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 0648–0174 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 Tahara Dawkins, Director, Commercial Remote Sensing Regulatory Affairs, 1335 East-West Highway, G101, Silver Spring, Maryland 20910; 301–713–3385; *tahara.dawkins@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for revision and extension to an approved information collection.

The Department of Commerce (DOC), through the National Oceanic and Atmospheric Administration (NOAA) Commercial Remote Sensing Regulatory Affairs (CRSRA), has the authority to regulate private space-based remote sensing under the Land Remote Sensing Policy Act of 1992, 51 U.S.C. 60101 *et seq.* (the Act) and regulations at 15 CFR part 960. The regulations facilitate the development of the U.S. private remote sensing industry and thus promote the collection and widespread availability of remote sensing data, while preserving essential U.S. national security interests and observing international obligations.

Applications are made in response to the requirements in the Act, as amended, and no collection forms are used. The application information received is used to determine if the applicant meets the legal criteria for issuance of a license to operate a private remote sensing space system, *i.e.,* the proposed system will be operated in accordance with the Act, U.S. national security concerns and international obligations. Application information includes information about the applicant (such as corporate information), the launch dates of any components going to space, and technical specifications of all components (especially the components in space that are capable of collecting imagery data).

If a licensee wishes to modify its license, either to reflect changes in its business practices or technical changes to its system, or to request different license conditions, it may submit such a request to CRSRA and explain why the change is sought. CRSRA need this information to be able to keep licenses accurate and to respond to the regulated community's needs.

Licensees are required to notify CRSRA when a spacecraft launches or deploys; upon disposal of an on-orbit component of the licensed system; upon detection of an anomaly; and upon the licensee's financial insolvency or dissolution. This information is critical to fulfilling one of the United States' key international obligations, which is to authorize and continually supervise U.S. nationals' activities in space. CRSRA, therefore, must be notified when spacecraft are deployed and disposed of so that CRSRA can supervise the space activities of U.S. nationals. Similarly, anomalies may indicate loss of control of a spacecraft, so CRSRA must monitor any anomalies to meaningfully supervise the activities of U.S. nationals in space. Finally, the financial insolvency or dissolution of a licensee may indicate that a change in control of the spacecraft will follow, because an insolvent licensee may go through a bankruptcy process that might put the licensed system's ownership in question. It is critical that CRSRA be able to intervene as early as possible in this process so that a sensitive system does not pass into the ownership of an entity who might jeopardize national security or international obligations.

CRSRA will require licensees to submit an annual compliance certification, which requires the licensee to verify that all facts in the license remain true. Facts that must be verified in this certification include the technical specifications of the system and other foundational facts that CRSRA relies upon in reviewing license applications. This information is critical to ensuring that only those entities who are legally fit to obtain a license do so.

NOAA is proposing to add two additional forms to this information collection. The optional information is being collected to reduce the total paperwork required to support regulation of the private space-based remote sensing industry, which involves (1) determining whether an applicant is required to apply for a license and (2) comparing the capabilities of remote sensing systems to other foreign and domestic remote sensing systems.

The optional Initial Contact Form (ICF) information includes contact information and general remote sensing system information. The ICF may be submitted electronically through the NOAA website prior to the submission of a full application. The ICF information received is used to determine if the applicant is required to submit a full application for the issuance of a license to operate a private remote sensing space system *i.e.,* the proposed system falls under the authority defined in the Act and the regulations. If NOAA determines after reviewing the ICF that an application is not required, the potential applicant will save 40–50 hours of paperwork by

not submitting the application. Additionally, the ICF gives NOAA the opportunity to provide early feedback and guidance on an application package, lowering the likelihood of time-consuming rewrites and edits to an application before it can be deemed complete. Therefore, the ICF can save significant time for industry and private entities, as well as government time.

The optional Data Availability Notification (DAN) information includes contact information and general data availability information. The DAN may be submitted electronically through the NOAA website during the application process, while an applicant holds a license, or by any interested party. The DAN information received is used to help determine the availability of unenhanced data from a foreign or domestic remote sensing system, which may then be compared to unenhanced data produced by an applicant's system for the purpose of adjusting the conditions and/or restrictions in a license. The DAN form ensures that only required information is submitted, thereby reducing unnecessary paperwork and/or follow-up correspondence.

II. Method of Collection

Information is collected electronically through the NOAA website.

III. Data

OMB Control Number: 0648–0174.

Form Number(s): None.

Type of Review: Regular (revision and extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Response: 15 hours for the submission of a license application; 1 hour each for the submission of a license amendment, notification of disposal of on-orbit component, notification of detection of anomaly, and notification of financial insolvency or dissolution; 2 hours each for notification of launch or deployment of spacecraft and the annual compliance certification; 20 minutes for the Initial Contact Form; and 10 minutes for the Data Availability Notification.

Estimated Total Annual Burden Hours: 450 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory. The ICF and DAN are voluntary.

Legal Authority: Land Remote Sensing Policy Act of 1992, 51 U.S.C. 60101 *et seq;* and 15 CFR part 960—Licensing of Private Remote Sensing Space Systems.

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. 2022–02601 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Bay Watershed Education and Training Program National Evaluation System

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 April 11, 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 0648–0658 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 Bronwen Rice, B–WET National Coordinator, NOAA Office of Education, 1401 Constitution Ave. NW, #6863, Washington, DC 20230, 202–604–1388, and *Bronwen.Rice@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for an extension of an existing information collection.

The National Oceanic and Atmospheric Administration's (NOAA) Office of Education is sponsoring data collection efforts on its Bay Watershed Education and Training (B–WET) program. The NOAA B–WET program is authorized under 33 U.S.C. 893a(a), the America COMPETES Act. The Administrator of the National Oceanic and Atmospheric Administration is authorized to conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. B–WET advances NOAA's mission by awarding education grants that foster an environmentally literate citizenry who have the knowledge, attitudes, and skills needed to protect watersheds and related ocean, coastal, and Great Lakes ecosystems. B–WET currently funds projects in seven regions (California, Chesapeake Bay, Great Lakes, Gulf of Mexico, Hawaii, New England, and the Pacific Northwest).

To ensure that educational activities funded by B–WET are of the highest quality, and maximize federal resources,

B–WET has created an across-region, internal evaluation system to provide ongoing monitoring of program implementation and to identify opportunities for improved program outcomes. The evaluation system is maintained by B–WET staff with occasional assistance from an outside contractor. The evaluation system collects information from B–WET program-funded project participants.

B–WET awardees of grants or cooperative agreements, and the awardees' teachers who attend professional development programs provided by the awardees, are asked to voluntarily complete online survey forms to provide data for the evaluation system. Information collected from awardees includes program elements such as program duration, format, audience, location, support and/or materials offered, and topics covered. Information collected from teacher professional development participants includes teaching methodologies, program satisfaction, program coverage, suggestions for improvement, and teaching confidence. Information collected from teachers at the end of the school year following their participation in a professional development program includes time spent teaching topics covered in the professional development program, types of activities used with their students, teachers' perceptions of student learning, and teaching practices utilized. One individual from each awardee organization is asked to complete a survey once per year of the award, and the teacher participants are asked to complete one survey at the end of their professional development program and another survey at the end of the following school year. Responses to the survey questions are aggregated and analyzed as part of ongoing evaluation efforts.

Based on a review of annual evaluation system results, B–WET has made program improvements by adjusting its Federal Notice of Funding Opportunities and program guidelines. On-going data collection enables NOAA to monitor program implementation and outcomes on a regular basis and supports adaptive management of the program.

II. Method of Collection

Respondents submit their information electronically using a survey collection platform.

III. Data

OMB Control Number: 0648–0658.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business and other for-profit organizations; not-for-profit institutions; state, local or tribal government; individuals or households.

Estimated Number of Respondents: Given the funding levels of the past three fiscal years, NOAA B–WET estimates that approximately 165 awardees and 3,374 teachers will be invited to respond each year.

Estimated Time per Response: Awardee-respondents will complete an online survey in 60 minutes and teacher-respondents will complete two online surveys in 30 minutes each.

Estimated Total Annual Burden Hours: 3,539.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

Respondent's Obligation: Voluntary.

Legal Authority: 33 U.S.C. 893a(a), the America COMPETES Act.

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. 2022–02603 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB741]

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 workshop webinars for U.S. Caribbean Queen Triggerfish Fishery Topical Working Group.

SUMMARY: The SEDAR 80 assessment process of U.S. Caribbean Queen Triggerfish will consist of a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 80 U.S. Caribbean Queen Triggerfish Fishery Topical Working Group workshop will be held via webinar from 12 p.m. to 4 p.m. Eastern, each day, February 28–March 2, 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) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a

report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the workshop are as follows:

Working Group members will discuss factors that may impact the fishery for U.S. Caribbean Queen Triggerfish. Potential assessment data may also be reviewed.

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 these meetings. 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 3, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–02610 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB780]

Marine Mammals; File No. 26245

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Zoological Society of San Diego d/b/a San Diego Zoo Wildlife Alliance, P.O. Box 120551, San Diego, CA 92112 (Responsible Party: Paul Baribault), has applied in due form for a permit to import, export, and receive protected species parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before March 10, 2022.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 26245 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26245 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D. or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to import, export, and receive protected species parts to create a resource for current and future research and to protect the diversity of the gene pool of endangered and protected marine species. Parts from up to 60 individuals of any species of cetacean, pinniped (excluding walrus), or sea turtle under NMFS' jurisdiction may be obtained annually. Cell lines may be received or created from samples obtained under this permit. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 2, 2022.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–02521 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Practitioner Conduct and Discipline

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0017 (Practitioner Conduct and Discipline). The purpose of this notice is to allow 60 days for public comment preceding

submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before April 11, 2022.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email: InformationCollection@uspto.gov.* Include ''0651–0017 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email at *dahlia.george@uspto.gov* with ''0651–0017 comment'' in the subject line. Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The Director of the USPTO has the authority to establish regulations governing the conduct and discipline of agents, attorneys, or other persons representing applicants and other parties before the USPTO (35 U.S.C. 2 and 32–33). The USPTO Rules of Professional Conduct, set forth in subpart D, part 11 of title 37 of the Code of Federal Regulations, prescribe the manner in which agents, attorneys, and other practitioners, representing applicants and other parties before the USPTO should conduct themselves professionally. Part 11 outlines practitioners' responsibilities for recordkeeping and reporting violations or complaints of misconduct to the USPTO. Subpart C of part 11 sets forth the manner by which the USPTO investigates misconduct and imposes discipline.

The USPTO Rules of Professional Conduct require a practitioner to maintain complete records of all funds, securities, and other properties of clients coming into his or her possession, and to render appropriate accounts to the client regarding the funds, securities, and other properties of clients coming into the practitioner's possession, collectively known as ''client property.'' These recordkeeping requirements are necessary to maintain the integrity of client property. State bars require attorneys to perform similar recordkeeping.

Part 11 also requires a practitioner to report knowledge of certain violations of the USPTO Rules of Professional Conduct to the USPTO. The Director of the Office of Enrollment and Discipline (OED) may, after notice and opportunity for a hearing, suspend, exclude, or disqualify any practitioner from further practice before the USPTO based on non-compliance with the USPTO Rules of Professional Conduct. Practitioners who have been excluded or suspended from practice before the USPTO, practitioners transferred to disability inactive status, and practitioners who have resigned must keep and maintain records of their steps to comply with the suspension or exclusion order, transfer to disability inactive status, or resignation. These records are necessary to demonstrate eligibility for reinstatement. Reports of alleged violations of the USPTO Rules of Professional Conduct are used by the Director of OED to conduct investigations and disciplinary hearings, as appropriate.

This information collection covers the various reporting and recordkeeping requirements set forth in Part 11 for practitioners representing applicants and other parties before the USPTO. Also covered are petitions for reinstatement for suspended or excluded practitioners and the means for reporting violations or complaints of misconduct to the USPTO.

II. Method of Collection

Items in this information collection may be submitted via online electronic submissions. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

OMB Control Number: 0651–0017.

Forms: No forms.

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Individuals or households.

Respondent's Obligation: Required to obtain or retain benefits.

Estimated Number of Annual Respondents 13,190 respondents.

Estimated Number of Annual Responses: 13,190 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public from approximately 1 to 3 hours to complete. This includes the time to gather the necessary information, prepare the forms or documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 14,192 hours.

Estimated Total Annual Respondent Hourly Cost Burden: $6,173,520.

TABLE 1—TOTAL REPORTING BURDEN HOURS AND HOURLY COSTS TO INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [1] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Complaint/Violation Reporting	216	1	216	3	648	$435	$281,880
2	Petition for Reinstatement under the Provisions Section 11.60(c).	5	1	5	1	5	435	2,175
Totals		221		221		653		284,055

The USPTO Rules of Professional Conduct require practitioner agents to maintain various records to maintain the integrity of client property and meet other requirements. Additional recordkeeping requirements are also given for practitioners who are under suspension or exclusion. The USPTO estimates that it will take a practitioner between 1 and 20 hours to perform these recordkeeping actions. Approximately 12,969 pracitioners require recordkeeping actions, for a total of 13,539 hours.

TABLE 2—TOTAL RECORDKEEPING BURDEN HOURS AND HOURLY COSTS TO INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual responses (a)	Estimated time for response (hours) (b)	Estimated burden (hour/year) (a) × (b) = (c)	Rate [2] ($/hour) (d)	Estimated annual respondent cost burden (c) × (d) = (e)
3	Recordkeeping Maintenance and Disclosure (includes advertisements, disclosure requirements relating to soliciting professional employment, notifications by non-attorney practitioner of inadvertently sent documents, and financial books and records such as trust accounts, fiduciary accounts, and operating accounts).	12,939	1	12,939	$435	$5,628,465
4	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion.	30	20	600	435	261,000
Totals		12,969	.....	13,539	.....	5,889,465

Estimated Total Annual Respondent Non-hourly Cost Burden: $8,419. This information collection has no capital start-up, maintenance costs, or recordkeeping costs. However, this information collection does have annual costs in the form of filing fees and postage costs.

Filing Fees

There is one filing fee associated with this information collection. This fee is listed in the table below.

TABLE 3—ESTIMATED TOTAL ANNUAL RESPONDENT FILING FEE COST BURDEN

Item No.	Item	Estimated annual responses (a)	Filing fee ($) (b)	Total non-hour cost burden (yr) (a) × (b) = (c)
2	Petition for Reinstatement under the Provisions Section 11.60(c)	5	$1,680	$8,400
Totals		.....	.....	$8,400

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 221 items will be submitted in the mail resulting in 2 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be $9.25. Therefore, the USPTO estimates $19 in postage costs associated with this information collection.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment— including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Adminstrative Officer, United States Patent and Trademark Office.

[FR Doc. 2022–02607 Filed 2–7–22; 8:45 am]

BILLING CODE 3510–16–P

[1] 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is $435 per hour. (*https://www.aipla.org/home/news-publications/economic-survey*).

[2] Ibid.

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2022–0010]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau or CFPB) is requesting to extend the Office of Management and Budget's (OMB's) approval for an existing information collection titled ''Registration of Mortgage Loan Originators (Regulation G).''

DATES: Written comments are encouraged and must be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2022–0010 in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau (Attention: PRA Office), 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 mail, hand delivery, or courier. Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, PRA Officer, at (202) 435–9267, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Registration of Mortgage Loan Originators (Regulation G).

OMB Control Number: 3170–0005.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit institutions.

Estimated Number of Respondents: 261,638.

Estimated Total Annual Burden Hour: 249,628.

Abstract: Regulation G (12 CFR part 1007 *et seq.*) implements the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act, 12 U.S.C. 5101 *et seq.*) which contains the Federal registration requirement with respect to any covered financial institutions and their employees who act as residential mortgage loan originators (MLOs). Regulation G requires covered institutions to register with the Nationwide Mortgage Licensing System and Registry, to obtain a unique identifier, to maintain this registration, and to disclose to consumers the unique identifier. Regulation G also requires the covered financial institutions employing these MLOs to adopt and to follow written policies and procedures ensuring their employees comply with these requirements and disclose the unique identifiers of their MLOs.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2022–02526 Filed 2–7–22; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Amendment of Department of Defense Federal Advisory Committees—Defense Advisory Committee for the Prevention of Sexual Misconduct

AGENCY: Department of Defense (DoD).

ACTION: Charter amendment of Federal Advisory Committee.

SUMMARY: The DoD is publishing this notice to announce that it is amending the charter for the Defense Advisory Committee for the Prevention of Sexual Misconduct (DAC–PSM).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Advisory Committee Management Officer, 703–692–5952.

SUPPLEMENTARY INFORMATION: The DAC–PSM's charter is being amended in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102–3.50(d). The charter and contact information for the DAC–PSM's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The DAC–PSM provides the Secretary of Defense, Deputy Secretary of Defense (''the DoD Appointing Authority''), the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), and, as applicable, the Secretary of Homeland Security, with independent advice and recommendations on the prevention of sexual assault (including rape, forcible sodomy, other sexual assault, and other sexual misconduct (including behaviors on the sexual assault continuum of harm)) involving members of the Armed Forces and the policies, programs, and practices of each Military Department, each Armed Force, each Military Service Academy (to include the United States Coast Guard Academy), at all DoD educational institutions and training facilities for the prevention of sexual assault, and other topics of special interest to the Department in response to specific tasks from the DoD Appointing Authority or the USD(P&R). The DAC–PSM is composed of no more than 20 members who are eminent authorities in the field and who have expertise in the prevention of sexual assault and behaviors on the sexual assault continuum of harm; adverse behaviors, including the prevention of suicide and the prevention of substance abuse; the change of culture of large organizations; implementation science; sexual assault prevention efforts of institutions of higher education, public health officials,

and such other individuals as the DoD Appointing Authority considers appropriate. Members will consist of talented, innovative private sector leaders with a diversity of background, experience, and thought in support of the DAC–PSM missions.

Individual members are appointed according to DoD policy and procedures, and serve a term of service of one-to-four years with annual renewals. One member will be appointed as Chair of the DAC–PSM. No member, unless approved by the DoD Appointing Authority according to DoD policy and procedures, may serve more than two consecutive terms of service on the DAC–PSM, or serve on more than two DoD Federal advisory committees at one time.

DAC–PSM members who are not full-time or permanent part-time Federal civilian officers or employees are appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. DAC–PSM members who are full-time or permanent part-time Federal civilian officers or employees are appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members. In accordance with 550B(b)(3) of the Fiscal Year 2020 National Defense Authorization Act, no active duty member of the Armed Forces shall be appointed as a DAC–PSM member.

All DAC–PSM members are appointed to provide advice based on their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official DAC–PSM-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements about the DAC–PSM's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the DAC–PSM. All written statements shall be submitted to the DFO for the DAC–PSM, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: February 2, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–02581 Filed 2–7–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0011]

Supplemental Support Under the American Rescue Plan (SSARP) Application; Correction

AGENCY: Department of Education (ED), Office of Postsecondary Education (OPE).

ACTION: Correction notice.

SUMMARY: On February 3, 2022, the U.S. Department of Education published a 60-day comment period notice in the **Federal Register** (Vol. 87, No. 23, Page 6154, Column 1, 2 and 3) seeking public comment for an information collection entitled, ''Supplemental Support under the American Rescue Plan (SSARP) Application.'' The comment closing date of April 4, 2022, has been corrected to March 7, 2022, due to this being a 30 day notice.

The PRA Coordinator, Strategic Collections and Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: February 3, 2022.

Kate Mullan, PRA,

Coordinator, Strategic Collections and Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–02575 Filed 2–7–22; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act notice; notice of public meeting (roundtable) agenda.

SUMMARY: Public Roundtable: U.S. Election Assistance Commission Language Access Roundtable.

DATES: Thursday, February 17, 2022, 1:00 p.m.–3:00 p.m. Eastern.

ADDRESSES: Virtual via Zoom.

The meeting is open to the public and will be livestreamed on the U.S. Election Assistance Commission YouTube Channel: *https://www.youtube.com/channel/UCpN6i0g2rlF4ITWhwvBwwZw.*

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will conduct a virtual meeting to discuss topics and resources available to election officials as they serve language minority voters.

Agenda: Commissioners will hold a public meeting (roundtable) to moderate panel discussions on the following topics: (1) The importance of accurate, legal, and culturally competent translation for limited-English proficiency voters and best practices for implementing new language programs, including serving voters with disabilities, (2) How jurisdictions have implemented effective language assistance plans to better serve voters in their communities, (3) Highlighting innovative and practical ways jurisdictions have addressed languages challenges, and (4) Design elements, budget impacts and helpful tips to stretch funds for the greatest results.

Background: New Section 203 determinations were made in December 2021. The EAC will host a virtual roundtable to highlight a spectrum of issues that state and local election officials will need to consider when adopting new language requirements or recently losing section language requirements. Commissioners and attendees will hear from expert panelists who will share resources and best practices related to serving language minority groups.

The full agenda will be posted in advance on the EAC website: *https://www.eac.gov/events/2022/02/17/language-access-roundtable.*

Status: This meeting will be open to the public.

Kevin Rayburn,

General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2022–02705 Filed 2–4–22; 4:15 pm]

BILLING CODE P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this online meeting be announced in the **Federal Register**.

DATES: Wednesday, March 9, 2022; 6:00 p.m.–7:30 p.m.

ADDRESSES: Online Virtual Meeting. To attend, please send an email to: *orssab@orem.doe.gov* by no later than 5:00 p.m. EST on Wednesday, March 2, 2022.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy (DOE), Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831; Phone (865) 241–3315; or E-Mail: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation: Discussion on Fiscal Year 2024 Budget Development
- Public Comment Period
- Motions/Approval of February 9, 2022 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports

Public Participation: The online meeting is open to the public. Written statements may be filed with the Board via email either before or after the meeting as there will not be opportunities for live public comment during this online virtual meeting. Public comments received by no later than 5:00 p.m. EST on Wednesday, March 2, 2022 will be read aloud during the virtual meeting. Comments will be accepted after the meeting, by no later than 5:00 p.m. EST on Monday, March 14, 2022. Please submit comments to *orssab@orem.doe.gov.* The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should email them as directed above.

Minutes: Minutes will be available by emailing or calling Melyssa P. Noe at the email address and telephone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on February 3, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–02582 Filed 2–7–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM19–12–000]

Revisions to the Filing Process for Commission Forms; Notice of eForms Updates

As provided for in the Order on Technical Conference issued on July 17, 2020 in the above-captioned proceeding,[1] notice is hereby given that, on February 17, 2022, the eXtensible Business Reporting Language (XBRL) taxonomies, validation rules, and rendering files needed to file the 2021 FERC Form Nos. 1, 1–F, 2, 2–A, 6, 60, and 714,[2] will be updated to Release 2.0.[3]

The draft updated taxonomies are currently available on the eForms web page (*https://www.ferc.gov/filing-forms/eforms-refresh*) and in the Yeti viewer at *https://XBRLview.FERC.gov/.* The most recent validation rules and rendering files are available in the Vendor Files Library at *https://www.ferc.gov/vendor-files-library.* Suggestions on the draft Release 2.0 taxonomies can be provided through the Commission's portal available at XBRLview.FERC.gov. The final Release 2.0 taxonomies will be made available for testing and the submission of official filings in the eCollection portal on February 17, 2022.

The 2021 FERC Form Nos. 1, 1–F, 2, 2–A, 6, 60, and 714 must be filed using the Release 2.0 taxonomies, validation rules, and rendering files. The 2021 FERC Form Nos. 1 and 1–F are due on April 18, 2022; the 2021 FERC Form Nos. 2 and 2–A are due on April 18, 2022; the 2021 FERC Form No. 6 is due on April 18, 2022; the 2021 FERC Form No. 60 is due on May 1, 2022;[4] and the 2021 FERC Form No. 714 is due on June 1, 2022.

Dated: February 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02613 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–937–000]

New Market Solar ProjectCo 1, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of New Market Solar ProjectCo 1, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 22, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access

[1] *Revisions to the Filing Process for Comm'n Forms,* 172 FERC ¶ 61,059 (2020) (July 17, 2020 Order on Technical Conference).

[2] The Commission adopted the XBRL process for filing these forms in Order No. 859. *Revisions to the Filing Process for Comm'n Forms,* Order No. 859, 167 FERC ¶ 61,241 (2019). The third-quarter 2021 FERC Form Nos. 3–Q (electric), 3–Q (natural gas) and 6–Q (oil) were due by December 31, 2021 and needed to be filed using the Release 1.5 taxonomies, validation rules, and rendering files.

[3] In the July 17, 2020 Order on Technical Conference, the Commission adopted the final XBRL taxonomies, protocols, implementation guide, and other supporting documents, and established the implementation schedule for filing the Commission Forms following a technical conference in this proceeding. The Commission also stated that technical updates, such as the updates referenced here, will not take effect until at least 60 days after issuance of a notice from the Office of the Secretary. July 17, 2020 Order on Technical Conference, 172 FERC ¶ 61,059 at P 26.

[4] FERC Form No. 60 must be filed by May 1 each year; however, because May 1, 2022 falls on a weekend, filers may submit the 2021 FERC Form No. 60 by May 2, 2022.

who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02539 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–48–000.
Applicants: New Market Solar ProjectCo 1, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 2/1/22.
Accession Number: 20220201–5167.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: EG22–49–000.
Applicants: New Market Solar ProjectCo 2, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 2/1/22.
Accession Number: 20220201–5182.
Comment Date: 5 p.m. ET 2/22/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1951–002.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: Compliance filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35: MAIT submits Order No. 864 Compliance Filing in ER20–1951 to be effective 1/27/2020.
Filed Date: 2/1/22.
Accession Number: 20220201–5137.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–306–002.
Applicants: Duke Energy Carolinas, LLC.
Description: Tariff Amendment: DEF—Errata to Filing of Revised Depreciation Rates 1.31 to be effective 1/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5383.
Comment Date: 5 p.m. ET 2/10/22.

Docket Numbers: ER22–957–000.
Applicants: PJM Interconnection, L.L.C.
Description: Report Filing: Supplemental Filing to ER22–957–000—Correcting Uploaded File to Attach. A to be effective N/A.
Filed Date: 2/1/22.
Accession Number: 20220201–5078.
Comment Date: 5 p.m. ET 2/7/22.

Docket Numbers: ER22–961–000.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment: Termination of CCSF Potrero E&P Agreements (TO SA 284) to be effective 4/3/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5116.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–962–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Order No. 2222 Compliance Filing and Motion for Extended Comment Period to be effective 7/1/2023.
Filed Date: 2/1/22.
*Accession Number:*20220201–5120.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–963–000.
Applicants: California Independent System Operator Corporation, Pacific Gas and Electric Company, Southern California Edison Company.
Description: Petition for Approval of Uncontested Settlement Agreement of California Independent System Operator Corporation, et. al.
Filed Date: 1/31/22.
Accession Number: 20220131–5512.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–964–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Nevada Power Transmission Facilities Agreement Rev 3 to be effective 3/12/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5158.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–965–000.
Applicants: Covanta Delaware Valley, L.P.
Description: Baseline eTariff Filing: Reactive Power Tariff Application to be effective 3/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5186.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–966–000.
Applicants: Covanta Essex Company.
Description: Baseline eTariff Filing: Reactive Power Tariff Application to be effective 3/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5189.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–967–000.
Applicants: Covanta Fairfax, LLC.
Description: Initial rate filing: Reactive Power Tariff Application to be effective 3/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5204.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–968–000.
Applicants: Covanta Plymouth Renewable Energy, LLC.
Description: Baseline eTariff Filing: Reactive Power Tariff Application to be effective 3/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5218.
Comment Date: 5 p.m. ET 2/22/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at:*http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02541 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–521–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Feb 1 Capacity Releases to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5047.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–522–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—2/1/2022 to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5056.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–523–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate—Northern Utilities 210363 Release eff 2–1–2022 to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5062.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–524–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 2–1–2022 to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5099.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–525–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—Feb 1, 2022 to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5122.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–526–000.
Applicants: Enable Mississippi River Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—Feb 1, 2022 to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5123.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–527–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: ANR—Citadel Negotiated Rate Agreement No. 137084 to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5133.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–528–000.
Applicants: North Baja Pipeline, LLC.
Description: § 4(d) Rate Filing: Energia de Baja California NR Agmt to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5138.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–529–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20220201 Annual PRA to be effective 4/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5142.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–530–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2022–02–01 Negotiated Rate Agreements to be effective 2/2/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5154.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–531–000.
Applicants: Midwestern Gas Transmission Company.
Description: § 4(d) Rate Filing: Negotiated Rate PAL—Twin Eagle Resource Management, LLC to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5225.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–532–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: § 4(d) Rate Filing: Open Season Filing to be effective 4/1/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5027.
Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–533–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements on 2–2–22 to be effective 12/31/9998.
Filed Date: 2/2/22.
Accession Number: 20220202–5055.
Comment Date: 5 p.m. ET 2/14/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP22–410–001.
Applicants: Alliance Pipeline L.P.
Description: Compliance filing: Action Alert and OFO Provisions Compliance Filing to be effective 1/13/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5039.
Comment Date: 5 p.m. ET 2/14/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02614 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR22–20–000.
Applicants: Columbia Gas of Maryland, Inc.
Description: Submits tariff filing per 284.123(b),(e)/: CMD SOC Rates

effective Dec 3 2021 to be effective 12/3/2021.

Filed Date: 1/31/2022.

Accession Number: 20220131–5066.

Comments/Protests Due: 5 p.m. ET 2/22/22.

Docket Number: PR22–21–000.

Applicants: NorthWestern Corporation.

Description: Submits tariff filing per 284.123(b),€/: Revised Transportation and Storage Rates (Annual Tax Tracker) to be effective 1/1/2022.

Filed Date: 1/31/2022.

Accession Number: 20220131–5070.

Comments/Protests Due: 5 p.m. ET 2/22/22.

Docket Number: PR22–22–000.

Applicants: Public Service Company of Colorado.

Description: Submits tariff filing per 284.123(b),(e)+(g): 2022 Statement of Rates—Eff. 1.1.22 to be effective 1/1/2022.

Filed Date: 1/31/2022.

Accession Number: 20220131–5168.

Comments/Protests Due: 5 p.m. ET 2/22/22.

284.123(g) Protests Due: 5 p.m. ET 4/1/22.

Docket Numbers: RP22–498–000.

Applicants: Transwestern Pipeline Company, LLC.

Description: Transwestern Pipeline Company, LLC submits tariff filing per 154.203: Alert Day Penalty Report on 1–26–2022 to be effective N/A.

Filed Date: 1/26/22.

Accession Number: 20220126–5230.

Comment Date: 5 p.m. ET 2/7/22.

Docket Numbers: RP22–507–000.

Applicants: Florida Gas Transmission Company, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates Filing on 1–28–2022 to be effective 2/1/2022.

Filed Date: 1/28/22.

Accession Number: 20220128–5262.

Comment Date: 5 p.m. ET 2/9/22.

Docket Numbers: RP22–508–000.

Applicants: Ruby Pipeline, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate Amendments (PG&E) to be effective 3/1/2022.

Filed Date: 1/28/22.

Accession Number: 20220128–5393.

Comment Date: 5 p.m. ET 2/9/22.

Docket Numbers: RP22–509–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Filing (Calpine) to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5119.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–510–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Constellation 54756 to Exelon 54784) to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5199.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–511–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20220131 Negotiated Rate to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5206.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–512–000.

Applicants: Kinder Morgan Louisiana Pipeline LLC.

Description: Compliance filing: 2021 Penalty to be effective N/A.

Filed Date: 1/31/22.

Accession Number: 20220131–5220.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–513–000.

Applicants: Kinder Morgan Illinois Pipeline LLC.

Description: Compliance filing: 2021 Penalty to be effective N/A.

Filed Date: 1/31/22.

Accession Number: 20220131–5221.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–514–000.

Applicants: MoGas Pipeline LLC.

Description: § 4(d) Rate Filing: MoGas Pipeline LLC Negotiated Rate Tariff Filing to be effective 3/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5260.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–515–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Feb 2022 to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5283.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–516–000.

Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Releases eff 2–1–22 to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5285.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–517–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Antero Neg Rate Amendment to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5319.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–518–000.

Applicants: LA Storage, LLC.

Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreement (TMV) to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5339.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–519–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: REX 2022–01–31 Negotiated Rate Agreements to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5381.

Comment Date: 5 p.m. ET 2/14/22.

Docket Numbers: RP22–520–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) Rate Filing: TPC 2022–01–31 Negotiated Rate Agreement to be effective 2/1/2022.

Filed Date: 1/31/22.

Accession Number: 20220131–5388.

Comment Date: 5 p.m. ET 2/14/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02540 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–938–000]

New Market Solar ProjectCo 2, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of New Market Solar ProjectCo 2, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 22, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02538 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–799–001.
Applicants: Lancaster Area Battery Storage, LLC.
Description: Tariff Amendment: Lancaster Area Battery Storage, LLC MBR Tariff to be effective 1/11/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5094.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–969–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Cancellation of Service Agreement No. 70 with Soledad Energy, LLC of Pacific Gas and Electric Company.
Filed Date: 2/1/22.
Accession Number: 20220201–5245.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–970–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6356; Queue No. AG2–205 to be effective 1/5/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5030.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–971–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3909 Rocking R Solar GIA to be effective 1/21/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5043.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–972–000.
Applicants: KODE Novus I, LLC.
Description: Tariff Amendment: KODE Novus I, SFA Cancellation Filing to be effective 2/3/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5053.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–973–000.
Applicants: KODE Novus II, LLC.
Description: Tariff Amendment: KODE Novus II LLC MBR Cancellation Filing to be effective 2/3/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5054.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–974–000.
Applicants: KODE Novus I, LLC.
Description: Tariff Amendment: KODE Novus I, MBR Cancellation Filing to be effective 2/3/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5056.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–975–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Tariff Clean-Up Filing Effective 20220301 to be effective 3/1/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5063.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–976–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, SA No. 6023; Queue No. AE1–109 (amend) to be effective 4/6/2021.
Filed Date: 2/2/22.
Accession Number: 20220202–5068.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–977–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Niagara Mohawk Power Corporation submits tariff filing per 35.13(a)(2)(iii): NYISO-National Grid joint 205 Amended and Restated SGIA2576 Sky High Solar to be effective 1/19/2022.
Filed Date: 2/2/22.
Accession Number: 20220202–5083.
Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–978–000.
Applicants: NorthWestern Corporation.
Description: Formula Rate 2021 Post-employment Benefits Other than Pensions filing of NorthWestern Corporation (Montana).
Filed Date: 1/28/22.
Accession Number: 20220128–5513.

Comment Date: 5 p.m. ET 2/18/22.

Docket Numbers: ER22–979–000.

Applicants: Appalachian Power Company.

Description: § 205(d) Rate Filing: OATT—Revise Attachment K, AEP Texas Inc. Rate Update to be effective 12/31/9998.

Filed Date: 2/2/22.

Accession Number: 20220202–5092.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–980–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–NTEC Long Glade & Tiller Tap Delivery Point Agreements to be effective 4/4/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5100.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–981–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–NTEC Avinger Amended Delivery Point Agreement to be effective 4/4/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5101.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–982–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, SA No. 5319; Queue No. AB2–015 re: Withdrawal to be effective 3/4/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5102.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–983–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: ISO–NE/NEPOOL; Rev. to Allow Participation of DER Aggregations in NE Markets to be effective 11/1/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5123.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–984–000.

Applicants: American Electric Power Service Corporation, AEP Ohio Transmission Company, Inc., Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEPSC Power Factor Pilot Program filing to add Att. 5 to SA 1336 to be effective 2/3/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5162.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–985–000.

Applicants: KODE Novus I, LLC.

Description: Tariff Amendment: KODE Novus I SFA Cancellation Filing to be effective 2/3/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5167.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–986–000.

Applicants: KODE Novus I, LLC.

Description: Tariff Amendment: KODE Novus I MBR Cancellation to be effective 2/3/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5168.

Comment Date: 5 p.m. ET 2/23/22.

Docket Numbers: ER22–987–000.

Applicants: KODE Novus II, LLC.

Description: Tariff Amendment: KODE Novus II MBR Cancellation Filing to be effective 2/3/2022.

Filed Date: 2/2/22.

Accession Number: 20220202–5170.

Comment Date: 5 p.m. ET 2/23/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES22–28–000.

Applicants: Morongo Transmission, LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Morongo Transmission, LLC.

Filed Date: 2/1/22.

Accession Number: 20220201–5244.

Comment Date: 5 p.m. ET 2/22/22

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02611 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–15–000]

Joint Federal-State Task Force on Electric Transmission; Notice of Meeting and Agenda

As first announced in the Commission's December 14, 2021 Notice in the above-captioned docket,[1] the second public meeting of the Joint Federal-State Task Force on Electric Transmission (Task Force) will be held on Wednesday, February 16, 2022, from approximately 10:00 a.m. to 2:00 p.m. Eastern time. The meeting will be held at the Renaissance Downtown Hotel in Washington, DC. Commissioners may attend and participate in this meeting. Attached to this Notice is an agenda for the meeting.

Discussions at the meeting may involve issues raised in proceedings that are currently pending before the Commission. These proceedings include, but are not limited to:

PJM Interconnection, L.L.C ...	Docket No. ER22–902–000.
PJM Interconnection, L.L.C ...	Docket No. ER22–702–000.
California Independent System Operator Corporation.	Docket Nos. ER21–1790–003; ER2–1790–005.
Duke Energy Florida, LLC v. *Florida Power & Light Co. and Florida Power & Light Co. d/b/a Gulf Power.*	Docket No. EL21–93–000.
Neptune Regional Transmission System, LLC and Long Island Power Authority v. PJM Interconnection, L.L.C.	Docket No. EL21–39–000.

The meeting will be open to the public for listening and observing and on the record. There is no fee for attendance and registration is not required. The public may attend in person or via audio Webcast.[2] Pursuant to Mayor's Order 2021–148, beginning

[1] *Joint Fed.-State Task Force on Elec. Transmission,* Notice, Docket No. AD21–15–000 (issued Dec. 14, 2021).

[2] A link to the webcast will be available here on the day of the event: *https://www.ferc.gov/TFSOET.*

on February 15, 2022, indoor event and meeting establishments, including hotel meeting facilities in the District of Columbia ''shall not permit a guest, visitor, or customer over twelve (12) years old to enter their indoor premises without displaying proof of vaccination against COVID–19.'' [3] Unless exempt, patrons must present photo identification and proof of vaccination upon entry to the Renaissance Downtown Hotel. Additionally, pursuant to Mayor's Order 2022–018, all persons are required to wear masks indoors in the District of Columbia,[4] including in all areas of the Renaissance Downtown Hotel. This conference will be transcribed. Transcripts will be available for a fee from Ace Reporting, 202–347–3700.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

More information about the Task Force, including frequently asked questions, is available here: *https://www.ferc.gov/TFSOET.* For more information about this meeting, please contact: Gretchen Kershaw, 202–502–8213, *gretchen.kershaw@ferc.gov;* or Jennifer Murphy, 202–898–1350, *jmurphy@naruc.org.* For information related to logistics, please contact Benjamin Williams, 202–502–8506, *benjamin.williams@ferc.gov;* or Rob Thormeyer, 202–502–8694, *robert.thormeyer@ferc.gov.*

For more information about this Notice, please contact:

Michael Cackoski (Technical Information), Office of Energy Policy and Innovation, (202) 502–6169, *Michael.Cackoski@ferc.gov.*

Gretchen Kershaw (Legal Information), Office of the General Counsel, (202) 502–8213, *Gretchen.Kershaw@ferc.gov.*

[3] Mayor's Order 2021–148, Vaccination Requirements for Entrance into Certain Indoor Establishments and Facilities (Dec. 22, 2021), *https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/2021-148%20Vaccination%20Requirement%20for%20Entrance%20into%20Certain%20Indoor%20Establishments%20and%20Facilities.pdf.*

[4] Mayor's Order 2022–018, Extension of Indoor Mask Requirements (Jan. 26, 2022), *https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/2022–018%20Extension%20of%20Indoor%20Mask%20Requirements.pdf.*

Dated: February 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02612 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–26–000.
Applicants: PJM Interconnection, L.L.C.
Description: ISO/RTO § 206 Filing: Revisions to OA Sch. 1, section 5.6 re: Transmission Constraint Penalty Factors to be effective 12/31/9998.
Filed Date: 1/31/22.
Accession Number: 20220131–5393.
Comment Date: 5 p.m. ET 2/7/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2806–005; ER10–2818–005; ER10–2847–005; ER13–2386–007; ER14–963–005; ER18–1984–002; ER19–1889–002.
Applicants: Antrim Wind Energy LLC, Big Level Wind LLC, TransAlta Wyoming Wind LLC, Lakeswind Power Partners, LLC, TransAlta Centralia Generation LLC, TransAlta Energy Marketing Corporation, TransAlta Energy Marketing (U.S.) Inc.
Description: Notice of Change in Status of TransAlta Energy Marketing (U.S.) Inc., et al.
Filed Date: 1/31/22.
Accession Number: 20220131–5502.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–874–000.
Applicants: Graphite Solar 1, LLC.
Description: Supplement to January 24, 2022 Baseline Market Rate Based Filing to be effective 1/24/2022.
Filed Date: 1/28/22.
Accession Number: 20220128–5507.
Comment Date: 5 p.m. ET 2/18/22.

Docket Numbers: ER22–949–000.
Applicants: Flat Ridge 3 Wind Energy, LLC.
Description: § 205(d) Rate Filing: CFA, Common Facilities Agreement to be effective 4/2/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5363.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–950–000.
Applicants: South Jersey Energy ISO4, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5366.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–951–000.
Applicants: South Jersey Energy ISO5, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5368.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–952–000.
Applicants: South Jersey Energy ISO6, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5371.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–953–000.
Applicants: South Jersey Energy ISO7, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5372.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–954–000.
Applicants: South Jersey Energy ISO8, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5377.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–955–000.
Applicants: South Jersey Energy ISO9, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5378.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–956–000.
Applicants: South Jersey Energy ISO10, LLC.
Description: Tariff Amendment: Cancellation of MBR Tariff to be effective 2/1/2022.
Filed Date: 1/31/22.
Accession Number: 20220131–5380.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–957–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to Tariff, Att K, sec 5.6 Transmission Constraint Penalty Factor to be effective 12/31/9998.
Filed Date: 1/31/22.
Accession Number: 20220131–5385.
Comment Date: 5 p.m. ET 2/7/22.

Docket Numbers: ER22–959–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3906 Wedington Solar GIA to be effective 1/10/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5023.
Comment Date: 5 p.m. ET 2/22/22.

Docket Numbers: ER22–960–000.
Applicants: Nine Mile Point Nuclear Station, LLC.
Description: § 205(d) Rate Filing: First Amendment to the Second Amended and Restated Operating Agreement Filing to be effective 2/1/2022.
Filed Date: 2/1/22.
Accession Number: 20220201–5085.
Comment Date: 5 p.m. ET 2/22/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:*http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–02542 Filed 2–7–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9317–01–OMS]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, Idaho Department of Environmental Quality (IDEQ)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Environmental Protection Agency's (EPA) approval of the Idaho Department of Environmental Quality (IDEQ) request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA approves the authorized program revisions/modifications as of February 8, 2022.

FOR FURTHER INFORMATION CONTACT: Shirley M. Miller, U.S. Environmental Protection Agency, Office of Information Management, Mail Stop 2824T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566–2908, *miller.shirley@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On July 19, 2021, the Idaho Department of Environmental Quality (IDEQ) submitted an application titled Idaho Pollutant Discharge Elimination System (IPDES) Program for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed IDEQ's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve IDEQ's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR is being published in the **Federal Register**:

Part 501: State Sludge Management Program Regulations Reporting Under CFR 501 & 503

IDEQ was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Dated: February 3, 2022.

Jennifer Campbell,

Director, Office of Information Management.

[FR Doc. 2022–02625 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0656; FRL—9554–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Petroleum Dry Cleaners (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Petroleum Dry Cleaners (EPA ICR Number 0997.13, OMB Control Number 2060–0079), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2022. Public comments were previously requested, via the **Federal Register**, on February 8, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before March 10, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2020–0656, online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection

Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at: *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Petroleum Dry Cleaners (40 CFR part 60, subpart JJJ) apply to the following existing and new facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 38 kilograms (84 pounds): Petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks. In general, NSPS standards require initial notification reports, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are generally considered essential in determining compliance, and are required of all affected facilities subject to NSPS. For this source category, only recordkeeping and initial notifications and reports are considered essential in determining compliance with 40 CFR part 60, subpart JJJ.

Form Numbers: None.

Respondents/affected entities: Petroleum dry cleaners.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart JJJ).

Estimated number of respondents: 1 (total).

Frequency of response: Initially.

Total estimated burden: 90 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $11,000 (per year), which includes $0 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the burden in this ICR in comparison to the previous ICR. This decrease is not due to any program changes. There is a decrease in the total burden hours from the most-recently approved ICR because of a decrease in the number of sources subject to these standards. This ICR incorporates more accurate estimates of existing sources based on consultations with EPA's Office of Air Quality Planning and Standards and a review of affected facilities in the EPA's Enforcement and Compliance History Online (ECHO) database and reflects decline within the industry as dry cleaning facilities have moved to reduce use of petroleum solvents and incorporate newer technologies. The burden for this rule continues to apply only for one-time reporting requirements for new sources. This ICR reduces the number of new sources anticipated and conservatively estimates burden for one new affected facility per year. The overall result is a decrease in burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–02621 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9422–01–ORD]

Ambient Air Monitoring Reference and Equivalent Methods; Designation of One New Reference Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the designation of a new reference method for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated one new reference method for measuring concentrations of nitrogen dioxide (NO_2) in ambient air.

FOR FURTHER INFORMATION CONTACT: Robert Vanderpool, Air Methods and Characterization Division (MD–D205–03), Center for Environmental Measurements and Modeling, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: 919–541–7877. Email: *Vanderpool.Robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQS) as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining compliance with the NAAQS. A list of all reference or equivalent methods that have been previously designated by EPA may be found at *http://www.epa.gov/ttn/amtic/criteria.html.*

The EPA hereby announces the designation of one new reference method for measuring concentrations of NO_2 in ambient air. This designation is made under the provisions of 40 CFR part 53, as amended on October 26, 2015(80 FR 65291–65468).

The new reference method for NO_2 is an automated method (analyzer) utilizing the measurement principle based on gas phase chemiluminescence. This newly designated reference method is identified as follows:

RFNA–1221–259, ''KENTEK Inc. Model MEZUS 210 NO_2 Analyzer,'' Chemiluminescence analyzer operated in a range of 0–0.5 ppm, with 0.45 µm, 47 mm diameter Teflon® filter installed, operated at temperatures between 20 °C and 30 °C, with nominal sampling flow rate of 800 cc/min, using a 5 minute averaging time, with either 105VAC–125VAC or 200VAC–240VAC input power options installed, 360-watt power consumption, equipped with 7 inch LCD touch screen display, and operated according to the KENTEK Inc. Model MEZUS 210 Nitrogen Oxide Analyzer Instruction Manual.

This application for a reference method determination for this NO_2 method was received by the Office of Research and Development on October 25, 2021. This analyzer is commercially

available from the applicant, KENTEK Inc., Hanshin S Meca room #526, 65 Techno 3-ro, Yuseong-gu, Daejeon, Republic of Korea, 34016.

A representative test analyzer was tested in accordance with the applicable test procedures specified in 40 CFR part 53, as amended on October 26, 2015. After reviewing the results of those tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that this method should be designated as a reference method.

As a designated reference method, this method is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, this method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (*e.g.,* configuration or operational settings) specified in the designated method description (see the identification of the method above).

Use of the method also should be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program,'' EPA–454/B–13–003, (both available at *http://www.epa.gov/ttn/amtic/qalist.html*). Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR part 58.

Consistent or repeated noncompliance with any of these conditions should be reported to: Director, Air Methods and Characterization Division (MD–D205–03), Center for Environmental Measurements and Modeling, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

Alice Gilliland,

Acting Director, Center for Environmental Measurements and Modeling.

[FR Doc. 2022–02569 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0744; FRL–9097–01–OCSPP]

Agency Information Collection Activities; Proposed Renewal of Currently Approved Collection and Request for Comment; Notification of Substantial Risk of Injury to Health and the Environment Under the Toxic Substances Control Act (TSCA)

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): ''Notification of Substantial Risk of Injury to Health and the Environment under the Toxic Substances Control Act (TSCA)'' and identified by EPA ICR No. 0794.17 and OMB Control No. 2070–0046. 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 information collection activities and burden estimates that are 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 April 11, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0744, though 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 opened to visitors by appointment only. For the latest status information on EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Regulatory Support Branch (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: TCSA Notification of Substantial Risk of Injury to Health and the Environment (TSCA Section 8(e)).

EPA ICR No.: 0794.17.

OMB Control No.: 2070–0046.

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: Under TSCA section 8(e), any person who manufactures (defined by statute to include imports), processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment is required to immediately inform EPA of such information unless they have actual knowledge that EPA has been adequately informed of such information (15 U.S.C. 2607(e)).

EPA receives and screens TSCA section 8(e) submissions covering a large number of chemical substances and mixtures on a wide range of chemical toxicity/exposure information. Although EPA's receipt of TSCA section 8(e) information does not necessarily trigger immediate regulatory action under TSCA or other authorities administered by EPA, all TSCA section 8(e) submissions receive screening level evaluations by EPA's Office of Pollution Prevention and Toxics (OPPT) to identify priorities for further Agency action and appropriate referrals to other programs.

In addition, EPA is offering an electronic reporting option for use both by those who are required to submit a notification of substantial risk under TSCA section 8(e) and by those who wish voluntarily to submit ''For Your Information'' (FYI) notices by registering and submitting information electronically using the Agency's Central Data Exchange (CDX).

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 50 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: Entities potentially affected are those that manufacture, process, import, or distribute in commerce chemical substances and mixtures. The following North American Industrial Classification System (NAICS) codes have been provided to assist in determining whether this action might apply to certain entities: Chemical manufacturing (NAICS code 325) and petroleum and coal product manufacturing (NAICS code 324).

Respondent's obligation to respond: Mandatory; 15 U.S.C. 2607(e).

Frequency of response: On occasion.

Total estimated number of potential respondents: 51.

Total estimated average number of responses for each respondent: 343.

Total estimated annual burden hours: 17,565 hours.

Total estimated annual costs: $1,635,246. This includes an estimated burden cost of $1,635,246 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 a decrease of 3,847 hours from that currently in the OMB inventory (from 21,412 to 17,565 hours). This reflects an overall decrease in the number of section 8(e) and FYI submissions, which decreased from 408 to 343 8(e) submissions and 13 to 6 FYI submissions respectively total annual costs compared with that identified in the ICR currently approved by OMB. This increase is due to an increase in the hourly wages and a change in the methodology to calculate loaded wages (wages plus fringe benefits and overhead). Additional details are in the ICR. 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 *et seq.*

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–02561 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2021–0086; FRL–9555–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Coke Oven Batteries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Coke Oven Batteries (EPA ICR Number 1362.12, OMB Control Number 2060–0253), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2022. Public comments were previously requested, via the **Federal Register**, on April 13, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before March 10, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2021–0086, online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coke Oven Batteries (40 CFR part 63, subpart L) were proposed on December 4, 1992; promulgated on October 27, 1993; and amended on April 15, 2005. These regulations apply to all coke oven batteries, whether existing, new, reconstructed, rebuilt, or restarted. It also applies to all batteries using conventional by-product recovery processes, non-recovery processes, or any new recovery processes. New facilities include those that commenced construction or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart L.

Form Numbers: None.

Respondents/affected entities: Owners or operators of iron and steel integrated plants that produce coke for their operations and merchant plants that produce furnace and foundry coke for sale on the open market.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart L).

Estimated number of respondents: 14 (total).

Frequency of response: Semiannually.

Total estimated burden: 58,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $6,880,000 (per year), which includes $0 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The decrease in burden from the most-recently approved ICR is due to a decrease in the number of sources. There is an adjustment decrease in labor hours from the most-recently approved ICR. This decrease reflects revisions to the number of existing respondents that are subject to 40 CFR part 63, subpart L, and that are anticipated to reconstruct or close batteries subject to these standards. This decrease is not due to any program changes. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–02616 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9531–01–R1]

Notice of Availability of Draft NPDES Medium Wastewater Treatment Facilities General Permit for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft NPDES general permit MAG590000.

SUMMARY: The Director of the Water Division, U.S. Environmental Protection Agency—Region 1 (EPA), is providing a Notice of Availability for the Draft National Pollutant Discharge Elimination System (NPDES) Medium Wastewater Treatment Facilities General Permit (Medium WWTF GP) for discharges to certain waters of the Commonwealth of Massachusetts. This Draft NPDES Medium WWTF GP (''Draft General Permit'') establishes effluent limitations and requirements, effluent and ambient monitoring requirements, reporting requirements, and standard conditions for 44 eligible facilities that are currently covered by individual NPDES permits (see Attachment E of the Draft General Permit for a list of eligible WWTFs). The Draft General Permit is available on EPA Region 1's website at *https://www.epa.gov/npdes-permits/region-1-draft-medium-wastewater-treatment-facilities-general-permit-massachusetts.* The Fact Sheet for the Draft General Permit sets forth principal facts and the significant factual, legal, methodological, and policy questions considered in the development of the Draft General Permit and is also available at this website.

DATES: Comments must be received on or before April 11, 2022.

ADDRESSES: Written comments on the Draft General Permit may be mailed to U.S. EPA Region 1, Water Division, Attn: Michele Duspiva, 5 Post Office Square, Suite 100, Mail Code 06–4, Boston, Massachusetts 02109–3912, or sent via email to: *Duspiva.Michele@epa.gov.* Due to the COVID–19 National Emergency, if comments are submitted in hard copy form, please also email a copy to the EPA contact above.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Draft General Permit may be obtained from Michele Duspiva, U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Mail Code 06–4, Boston, MA 02109–3912; telephone: 617–918–1682; email: *Duspiva.Michele@epa.gov.* Following U.S. Centers for Disease Control and Prevention (CDC) and U.S. Office of Personnel Management (OPM) guidance and specific state guidelines impacting our regional offices, EPA's workforce has been directed to telework to help prevent transmission of the coronavirus. While in this workforce telework status, there are practical limitations on the ability of Agency personnel to allow the public to review the administrative record in person at the EPA Boston office. However, any electronically available documents that are part of the administrative record can be requested from the EPA contact above.

SUPPLEMENTARY INFORMATION:

Public Comment Information: Interested persons may submit written comments on the Draft General Permit to EPA Region 1 at the address listed above. In reaching a final decision on this Draft General Permit, the Regional Administrator will respond to all significant comments and make responses available to the public on EPA Region 1's website. All comments must be postmarked or delivered by the close of the public comment period.

General Information: The Draft General Permit includes effluent limitations and requirements for eligible facilities based on technology and/or water quality considerations of the unique discharges from these facilities. The effluent limits established in the Draft General Permit ensure that the surface water quality standards of the receiving water(s) will be attained and/or maintained.

Obtaining Authorization: To obtain coverage under the General Permit, facilities meeting the eligibility

requirements outlined in Part I of this General Permit may submit a notice of intent (NOI) in accordance with Part IV of this General Permit and 40 CFR 122.28(b)(2)(i) & (ii). The contents of the NOI shall include at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, the receiving stream(s) and be signed by the operator in accordance with the signatory requirements of 40 CFR 122.22. Alternately, based on 40 CFR 122.28(b)(2)(vi), the Director may notify a discharger that it is covered by a general permit, even if the discharger has not submitted an NOI to be covered. EPA has determined that the facilities identified in Attachment E of the Draft General Permit all meet the eligibility requirements for coverage under the Draft General Permit and may be authorized to discharge under the General Permit by this type of notification.

Other Legal Requirements: Endangered Species Act (ESA): In accordance with the ESA, EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from WWTFs seeking coverage under the Draft General Permit. Concurrently with the public notice of the Draft General Permit, EPA will initiate an informal consultation with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) under ESA section 7, through the submission of a letter and biological assessment (BA) summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats under NOAA Fisheries jurisdiction as a result of EPA's issuance of the Draft General Permit. In this document, EPA has made a preliminary determination that the proposed issuance of the Draft General Permit is not likely to adversely affect the shortnose sturgeon, Atlantic sturgeon, or designated critical habitat for Atlantic sturgeon, as well as coastal protected whales and sea turtles. EPA will request that NOAA Fisheries review this submittal and inform EPA whether it concurs with this preliminary finding.

In addition, EPA has concluded that the Medium WWTF GP is consistent with activities analyzed in the USFWS January 5, 2016, Programmatic Biological Opinion (PBO) regarding the threatened northern long-eared bat.

Essential Fish Habitat (EFH): Under the 1996 Amendments (Pub. L. 104–267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.* (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes ''may adversely impact any essential fish habitat.'' 16 U.S.C. 1855(b). EPA has determined that the permit action may adversely affect the EFH of designated species. The Draft General Permit has been conditioned to minimize any impacts that reduce the quality and/or quantity of EFH. Additional mitigation is not warranted under Section 305(b)(2) of the Magnuson-Stevens Act. Concurrent with the public notice of the Draft General Permit, EPA will initiate consultation with NOAA Fisheries by providing this determination for their review.

National Historic Preservation Act (NHPA): Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not authorized to discharge under the Draft General Permit. Based on the nature and location of the discharges, EPA has determined that all facilities eligible for authorization under the Draft General Permit do not have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

Coastal Zone Management Act (CZMA): The CZMA, l6 U.S.C. 145l *et seq.,* and its implementing regulations (15 CFR part 930) require a determination that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) is consistent with the CZMA. Concurrent with the public notice of the Draft General Permit, EPA will request that the Executive Office of Environmental Affairs, MA CZM, provide a consistency concurrence that the proposed Draft General Permit is consistent with the MA CZMPs.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2022–02525 Filed 2–7–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
10248	TierOne Bank	Lincoln	NE	02/01/2022
10312	Darby Bank and Trust Company	Vidalia	GA	02/01/2022
10537	First City Bank of Florida	Fort Walton Beach	FL	02/01/2022

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on February 3, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–02564 Filed 2–7–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 10, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *MidWestOne Financial Group, Inc., Iowa City, Iowa:* to merge with Iowa, First Bancshares Corp., and thereby indirectly acquire First National Bank of Muscatine, both of Muscatine, Iowa, and First National Bank in Fairfield, Fairfield, Iowa.

B. Federal Reserve Bank of San Francisco (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Legacy Bancorp, San Jacinto, California;* to become a bank holding company by acquiring Legacy Bank (In Organization), Riverside County, California.

Board of Governors of the Federal Reserve System, February 3, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–02592 Filed 2–7–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843) and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 March 10, 2022.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Columbia Bank MHC and Columbia Financial, Inc., both of Fair Lawn, New Jersey;* to merge with RSI Bancorp M.H.C., and RSI Bancorp, Inc., and thereby indirectly acquire RSI Bank, and directly acquire RSI Bancorp Inc.'s subsidiary, Highlander Investment Company, all of Rahway, New Jersey, and to engage in activities related to brokering or servicing loans or other extensions of credit pursuant to section 225.28(b)(2) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 3, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–02594 Filed 2–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10398 #37]

Medicaid and Children's Health Insurance Program (CHIP) Generic Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: On May 28, 2010, the Office of Management and Budget (OMB) issued Paperwork Reduction Act (PRA) guidance related to the ''generic'' clearance process. Generally, this is an expedited process by which agencies may obtain OMB's approval of collection of information requests that are ''usually voluntary, low-burden, and uncontroversial collections,'' do not raise any substantive or policy issues, and do not require policy or methodological review. The process requires the submission of an overarching plan that defines the scope of the individual collections that would fall under its umbrella. On October 23, 2011, OMB approved our initial request to use the generic clearance process under control number 0938–1148 (CMS–10398). It was last approved on April 26, 2021, via the standard PRA process which included the publication of 60- and 30-day **Federal Register** notices. The scope of the April 2021 umbrella accounts for Medicaid and CHIP State plan amendments, waivers, demonstrations, and reporting. This

Federal Register notice seeks public comment on one or more of our collection of information requests that we believe are generic and fall within the scope of the umbrella. Interested persons are invited to submit comments regarding our burden estimates or any other aspect of this collection of information, including: The necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by February 22, 2022.

ADDRESSES: When commenting, please reference the applicable form number (see below) and the OMB control number (0938–1148). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: CMS–10398 (#74)/OMB control number: 0938–1148, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may access CMS' website at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Following is a summary of the use and burden associated with the subject information collection(s). More detailed information can be found in the collection's supporting statement and associated materials (see **ADDRESSES**).

Generic Information Collections

1. *Title of Information Collection:* Managed Care Rate Setting Guidance; *Type of Information Collection Request:* Revision of a currently approved collection; *Use:* The rate guide provides guidance and template content for state submission of actuarial rate certifications for Medicaid managed care capitation rates per 42 CFR 438.4 through 438.7. States are required to submit rate certifications for all Medicaid managed care capitation rates per § 438.7. The guide specifies our requirements for the rate certification and details what types of documentation should be included. The elements include descriptions of data used, projected benefit and non-benefit costs, rate range development, risk and contract provisions, and other considerations in all rate setting packages. It also details expectations for states when they submit rate certifications. Section 1903(m) of the Social Security Act requires that the capitation rates paid to Medicaid managed care organizations (MCOs) are actuarially sound. States must submit a rate certification for each set of capitation rates developed. Section 438.7(e) requires that CMS annually publish this guidance. *Form Number:* CMS–10398 (#37) (OMB control number: 0938–1148); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 135; *Total Annual Hours:* 608. For policy questions regarding this collection contact: Rebecca Burch-Mack at 303–844–7355.

Dated: February 3, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–02580 Filed 2–7–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; System of Records

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), HHS.

ACTION: Notice of a modified system of records, and rescindment of a system of records notice.

SUMMARY: The Department of Health and Human Services (HHS) is modifying a system of records maintained by the Office of Refugee Resettlement (ORR) within HHS' Administration for Children and Families (ACF), number 09–80–0325, titled ''Internet Refugee Arrivals Data System (iRADS),'' and is renaming it ''Refugee Arrivals Data System (RADS).'' In addition, HHS is rescinding system of records number 09–80–0329, titled ''ORR Unaccompanied Refugee Minors Records,'' as duplicative of modified system of records 09–80–0325. The modifications are explained in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: This notice is applicable February 8, 2022, subject to a 30-day period in which to comment on the new routine uses, described below. Please submit any comments by March 10, 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 Street SW, Washington, DC 20201, or *anita.alford@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: General questions about the modified system of records may be submitted by mail or email to: Iulia Kramer, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW, Washington, DC 20201; Email: *lulia.kramar@acf.hhs.gov,* or 202–401–5686.

SUPPLEMENTARY INFORMATION:

I. Modifications to System of Records 09–80–0325

ORR plans, develops, and directs the implementation of a domestic resettlement assistance program for refugees and other eligible populations described in the Categories of Individuals section of the below System of Records Notice (SORN). ORR provides resources to assist these populations with successful integration into American society. ORR's social services help refugees become self-sufficient as quickly as possible after their arrival in the United States. ORR also provides guidance, resources, and oversight for specific health challenges including medical assistance, initial health screenings, and consultations. ORR also oversees the Unaccompanied Children Program, providing care for unaccompanied refugee minors (URM) without lawful immigration status.

ORR is continuously enhancing data collection and record keeping for the many programs that provide refugee resettlement services to new arrivals. ORR expects RADS, the information technology (IT) platform associated with systems of records 09–80–0325 and 09–80–0329, to be the ''one stop'' shop for grantees to submit data, upload case management files, and submit performance reports and other information that will streamline service

delivery, and help ORR respond in a timely and effective manner to the diverse needs of ORR-served populations. ORR recently modified the RADS IT platform to allow for increased database capacity and increased access by ORR's grantees as ORR programs transition to using RADS as the exclusive platform.

Instead of continuing to maintain two SORNs for the Privacy Act records in the RADS IT platform (and for older records which still exist in paper form), ORR is merging the two SORNs, so that all of the records will be covered by SORN 09–80–0325, and SORN 09–80–0329 will be rescinded. The records about all populations served by ORR (unaccompanied children, other refugees, and other populations) have always been used for the same two purposes (ensuring provision of care and services, and providing information needed for reports, grants, budgeting, and similar purposes); covering the records in the same SORN will make that clear.

This modifications to SORN 09–80–0325 include:

- Making formatting changes required by the Office of Management and Budget (OMB) Circular A–108 and minor wording changes throughout the SORN.
- Changing the name of the system of records from internet Refugee Arrivals Data System (iRADS) to ORR Refugee Arrivals Data System (RADS).
- Revising the ''System Location'' section to omit a statement that a list of contractor sites where records are maintained is available upon request to the System Manager. (The IT system used to maintain the records is now wholly housed in the ACF Amazon Web Services cloud and is no longer in several contractor locations.)
- Updating the ''System Manager'' section to change the title of the official serving as the System Manager from Director, Division of Budget Policy and Data Analysis, to RADS Project Manager.
- Revising the ''Categories of Individuals'' section to add, as the last category, the description of unaccompanied refugee minors from SORN 09–80–0329; to add a note explaining that ORR uses the terms ''refugee'' and ''ORR population'' to describe all populations eligible to receive ORR refugee services and benefits; and to remove a note about a non-U.S. persons policy, which is prone to change.
- Revising the ''Categories of Records'' section to combine and unify the descriptions of records and data elements from the two previously separate SORNs 09–80–0325 and 09–80–0329, which were essentially the same and may apply to any of the categories of individuals.
- Revising the ''Records Source Categories'' section to include these sources from SORN 09–80–0329, which may apply to any of the categories of individuals: National and local refugee resettlement agencies, child welfare agencies, family members, private individuals, private and public hospitals, doctors, law enforcement agencies and officials, private attorneys, facilities reports, third parties, other federal agencies, state and local governments, agencies, and instrumentalities. Note that ''national and local refugee resettlement agencies'' is an updated description the resettlement community prefers instead of the description ''national and local *voluntary* refugee resettlement agencies'' that was used in SORN 09–80–0329.
- Revising the ''Routine Uses'' section to omit a statement at the start of the section that disclosures made under routine uses will be evaluated to ensure they are ''compatible with the purpose for which the information was collected'' (the statement is redundant because it repeats part of the definition of a routine use); and to delete two routine uses, add four new routine uses, and revise two existing routine uses, as follows:
  - The law enforcement routine use, which was numbered as routine use 1 in SORN 09–80–0325 and was not included in SORN 09–80–0329, has been deleted because ORR does not disclose information about these populations to law enforcement entities.
  - The routine use authorizing disclosures in administrative claim, complaint, and appeal proceedings filed by HHS employees, which was numbered as routine use 7 in SORN 09–80–0325, and as routine use 11 in SORN 09–80–0329, has been deleted because ORR does not disclose information about these populations in administrative proceedings filed by HHS employees.
  - Routine use 3, which authorizes disclosures to the Department of Justice, or a court or other adjudicative body in litigation or other proceedings, has been revised to remove redundant wording about ''compatibility'' (because that repeats part of the definition of a routine use); to use the broader term ''proceedings'' instead of ''litigation''; and to change ''his or her'' to ''the employee's'' to be gender neutral.
  - Routine use 5, which authorizes disclosures to contractors, has been expanded to include these additional disclosure recipients described in the corresponding routine use in SORN 09–80–0329: Grantees, consultants, and volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for HHS, and who have a need to have access to the information in the performance of their duties or activities for HHS. The phrase ''relating to the purposes of the system of records'' has also been added.
  - Routine use 11 is new; it has been added from SORN 09–80–0329 to authorize the disclosure of information to an attorney or representative of an individual in connection with any proceeding involving the Department of Homeland Security (DHS) or the Executive Office for Immigration Review. Such disclosures are not limited to information about URM.
  - Routine use 12 is new; it has been added from SORN 09–80–0329 to authorize the disclosure of information to a Protection and Advocacy program under the Protection and Advocacy for Individuals with Mental Illness Act, provided that such a request is appropriately made. Such disclosures are not limited to information about URM.
  - Routine use 13 is new; it has been added from SORN 09–80–0329 to authorize ORR to initiate a disclosure of information to DHS to inquire about DHS' progress in adjudicating or deciding immigration relief. Such disclosures are not limited to information about URM.
  - Routine use 14 is new; it has been added from SORN 09–80–0329 to authorize the disclosure of information to a provider of services to refugee minors, foster care agency, national voluntary refugee resettlement agency, or to a local, county, or state institution involved in resettlement activities. Such disclosures are not limited to information about URM.
- Removing the statement ''Disclosure to Consumer Reporting Agencies: None'' as unnecessary to include.
- Revising the ''Storage'' section to indicate which records are in electronic versus paper form (*i.e.,* newer records are electronic, and older records are in paper form).
- Revising the ''Retention'' section to explain that any of the records could be either destroyed (if they do not have historical value) or retained permanently (acquisitioned to the National Archives and Records Administration), after 15 years. (Previously, all records covered in SORN 09–80–0325 were described as permanently retained, and only URM case files covered in SORN 09–80–0329

were described as temporary records, with a retention period of 5 years.)

• Revising the ''Safeguards'' section to describe specific administrative, technical, and physical safeguards used to protect the records from unauthorized access, instead of merely stating that ''safeguards conform to the HHS Information Security Program.''

• Revising the procedures for making access, amendment, and notification requests to state that ''date of birth'' should be included and to explain how to verify identity, instead of referring individuals to the verification provisions in the HHS Privacy Act regulations.

Because some of these changes are significant, HHS provided adequate advance notice of the modified system of records to OMB and Congress in accordance with 5 U.S.C. 552a(r).

II. Rescindment of System of Records 09–80–0329

As modified in this notice, system of records 09–80–0325 now includes updated descriptions of the same records previously covered in system of records 09–80–0329. Accordingly, HHS is rescinding system of records 09–80–0329 as duplicative of modified SORN 09–80–0325.

Cindy Huang,

Director, Office of Refugee Resettlement, Administration for Children and Families.

SYSTEM NAME AND NUMBER:

ORR Refugee Arrivals Data System (RADS), 09–80–0325.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), Mary E. Switzer Building, 330 C Street SW, Washington, DC.

SYSTEM MANAGER(S):

RADS Project Manager, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW, Washington, DC 20201; Email: *iulia.kramar@acf.hhs.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1521–1524; Title V of the Refugee Education Assistance Act of 1980, 8 U.S.C. 1522 note.

PURPOSE(S) OF THE SYSTEM:

Records about individuals in all categories described in the Categories of Individuals section are used by HHS/ACF/ORR for the following purposes:

• To ensure that appropriate assistance, care, and services are provided to all populations served by ORR.

• To generate data needed to allocate funds for Formula Social Services and other grants according to statutory formulas established under 8 U.S.C. 1522(c)(1)(B) and (c)(2)(B); extract samples for the Annual Survey of Refugees, which collects information on the economic adjustment of refugees; and support other budget and grant requirements and data requests from within and outside ORR.

Records about URM are used for the specific purpose of verifying that legal responsibility for the minors is established, under state law, and ensuring that the minors receive the full range of assistance, care, and services that are available to all foster children in the state, and any additional services for which they are eligible.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records pertain to the following categories of individuals:

1. Individuals who are paroled as a refugee or asylee under 8 U.S.C. 1182(d)(5) (section 212(d)(5) of the Immigration and Nationality Act (INA)).
2. Individuals admitted as a refugee under 8 U.S.C. 1157 (section 207 of INA).
3. Individuals granted asylum under 8 U.S.C. 1158 (section 208 of INA).
4. Cuban and Haitian entrants, in accordance with requirements in Public Law 97–35, title V, 543(a)(2), 547 [8 U.S.C. 1522 (note)] and 45 CFR part 401.
5. Certain Amerasians from Vietnam who are admitted to the United States as immigrants pursuant to 8 U.S.C. 1101 note (Amerasian Immigration).
6. Iraqi or Afghan Special Immigrant Visa-holders admitted under the Consolidated Appropriations Act of 2008 (Pub. L. 110–161, Division G, Title V, Section 525) or the National Defense Authorization Act for FY 2008 (Pub. L. 110–181, Division A, Title XII, Section 1244).
7. Certified victims of a severe form of human trafficking as defined under 22 U.S.C. 7105(b)(1)(c) (Trafficking Victims Protection Act of 2000).
8. Individuals admitted for permanent residence, provided the individual previously held one of the statuses identified above.
9. URM who are admitted from refugee camps overseas or determined eligible after arrival in the United States and do not have a parent or a relative available and committed to providing for their long-term care. Children determined eligible after arrival include victims of a severe form of trafficking, Cuban and Haitian Entrants, minors granted asylum in the United States, minors with Special Immigrant Juvenile classification, and U status recipients.

(*Note:* ORR uses the terms ''refugee'' and ''ORR population'' to describe all populations eligible to receive ORR refugee services and benefits.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records consist of:

• Automated database records about the listed categories of individuals covered by the system (refugees, asylees, etc.) that are used to consolidate and generate information needed for reports, grants, budgeting, and similar purposes; and

• Electronic case files that help determine individuals' eligibility for benefits and services; case documents used for determining placements; and reports regarding client progress.

Data elements contained in the records include:

• Alien Number, full name, address, birth date, age, country of origin, birth country, citizenship country, ethnicity, gender, date of eligibility (*e.g.,* arrival date, date of grant of asylum), immigration status, health status and health conditions, and administrative data.

• Data used to determine refugee abilities and skills, such as English language proficiency, occupational skills, progress in education, and social adjustment.

• Client placement information, parent's names, child welfare agency, emancipation information, family reunification information, and other progress notes and updates.

RECORD SOURCE CATEGORIES:

The system of records consolidates the following data about all categories of individuals covered in this system, from these sources:

• Refugee arrival data from the Department of State's Worldwide Refugee Arrivals Processing System.

• Legacy refugee arrival data from the Department of State's Refugee Data Center.

• DHS U.S. Citizenship and Immigration Services (USCIS) asylum corps grant data and I–730 asylee derivative data with some data elements provided by Customs and Border Protection.

• DHS/Customs and Border Protection data regarding Cubans and Haitians entering the United States at land borders or Ports of Entry other than Miami, Florida, as well as Iraqi and Afghan Special Immigrants (starting in FY 2008).

• The Department of Justice (DOJ) Executive Office of Immigration Review asylum grant data.

• The United States Conference of Catholic Bishops and Church World Services in Miami, Florida, data for Cuban and Haitian entrants and Havana parolees (including data on Cuban Medical Parolees) entering the United States through the Port of Miami.

• The I–643 form (OMB No. 1615–0070), completed by refugees, asylees, Cuban entrants, Haitian entrants, and Amerasians and submitted to USCIS or ORR when filing an application for adjustment of status.

Additional sources include the following: National and local refugee resettlement agencies, child welfare agencies, family members, private individuals, private and public hospitals, doctors, law enforcement agencies and officials, private attorneys, facilities reports, third parties, other federal agencies, state and local governments, agencies, and instrumentalities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974 at 5 U.S.C. 552a(b), under which ACF may release 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.

1. Disclosure for Private Relief Legislation. Information may be disclosed to OMB at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A 19.

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 Department of Justice or in Litigation or Other Proceedings. Information may be disclosed to DOJ or to a court or other adjudicative body in litigation or other proceedings, when HHS or any of its components, or any employee of HHS acting the employee's official capacity, or any employee of HHS acting in the employee's individual capacity where DOJ or HHS has agreed to represent the employee or the United States Government, 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.

4. Disclosure to the National Archives and Records Administration (NARA). Information may be disclosed to NARA in records management inspections.

5. Disclosure to Contractors, Grantees, and Others. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for HHS relating to the purposes of this system of records and who need to have access to the information in the performance of their duties or activities for HHS.

6. Disclosure in Connection with Litigation or Settlement Discussions. Information may be disclosed in connection with litigation or settlement discussions regarding claims by or against HHS, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions.

7. Disclosure Incident to Requesting Information. Information may be disclosed (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), to any source from which additional information is requested when necessary to obtain information relevant to an agency decision concerning benefits.

8. Disclosure to Attorney. Information may be disclosed to an attorney or representative (as defined in 8 CFR 1.2) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before the Department of Homeland Security or the Executive Office for Immigration Review.

9. Disclosure to a Protection and Advocacy System. Information may be disclosed to Protection and Advocacy System when the request is appropriately made under the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. 10801 *et seq.*

10. Disclosure to Department of Homeland Security for Immigration Relief. ORR may initiate the disclosure of information to DHS to inquire about the DHS' progress in adjudicating or deciding immigration relief.

11. Disclosure to Service Provider. Information may be disclosed to a provider of services to refugee minors or a foster care agency or national refugee resettlement agency, or to a local, county, or state institution (*e.g.,* state refugee coordinator, child welfare agency, court, or social service agency) involved in resettlement activities as authorized by The Refugee Act of 1980 (8 U.S.C. 1521–1524).

12. Disclosure in the Event of a Security Breach Experienced by HHS. Records 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, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the agency (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' efforts to respond to the suspected or confirmed breach, or to prevent, minimize, or remedy such harm.

13. Disclosure to Assist Another Agency Experiencing a Breach. Records 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.

14. Disclosure for Cybersecurity Monitoring Purposes. Records may be disclosed to DHS if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

Information may also be disclosed from this system of records to parties outside HHS for any of the uses authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4) through (b)(11).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic storage media. Some older records are maintained in paper form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by ''A'' (alien) number or by name, date of birth, or date of entry.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are preserved in accordance with the ORR records schedule and are then either destroyed (if they do not have historical value) or retained permanently (acquisitioned to NARA), after 15 years. ORR's current records schedule (DAA–0292–2016–0012) was approved in 2016; ORR records schedule DAA–0292–2019–0009 is currently under review from NARA and will supersede the current ORR records schedule when approved.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Safeguards conform to the HHS Information Security Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

- *Authorized Users:* Access is strictly limited to authorized personnel whose official duties require such access (*i.e.,* valid business need to know).
- *Administrative Safeguards:* Controls to ensure proper protection of information and information technology systems include, but are not limited to, the completion of a Security Assessment and Authorization (SA&A) package and a Privacy Impact Assessment and mandatory completion of annual Information Security and Privacy Awareness training. The SA&A package consists of a Security Categorization, e-Authentication Risk Assessment, System Security Plan, evidence of Security Control Testing, Plan of Action and Milestones (if applicable), Contingency Plan, and evidence of Contingency Plan Testing. When the design, development, or operation of a system of records is performed by a contractor to accomplish an agency function, the applicable Privacy Act Federal Acquisition Regulation clauses are inserted in solicitations and contracts.
- *Technical Safeguards:* Controls that are generally executed by the computer system and are employed to minimize the possibility of unauthorized access, use, or dissemination of the data in the system include, but are not limited to, user identification, password protection, firewalls, virtual private network, encryption, intrusion detection system, common access cards, smart cards, biometrics, and public key infrastructure.
- *Physical Safeguards:* Controls to secure the data and protect paper and electronic records, buildings, and related infrastructure against threats associated with their physical environment include, but are not limited to, the use of the HHS Employee ID and/or badge number and key cards, security guards, cipher locks, biometrics, and closed-circuit TV. Electronic media are kept on secure servers or computer systems.

RECORD ACCESS PROCEDURES:

An individual seeking access to a record about that individual in this system of records should address written inquiries to the System Manager. The request should include the individual's name, Alien Number, date of birth, telephone number and/or email address, and address of the individual, and should be signed. In addition, the requester must verify the requester's identity by providing either a notarization of the request or a written certification that the requester is the individual who the requester claims to be and understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act, subject to a fine of up to $5,000. An individual may also request an accounting of disclosures that have been made of any records about that individual.

CONTESTING RECORD PROCEDURES:

Records that contain factually incorrect information may be contested. To contest information in a record about you, write to the System Manager; provide the same information described under ''Record Access Procedures,'' including identity verification information; and specify the information that is contested, the corrective action sought, and the reason(s) for requesting the correction, along with supporting information. The right to contest records is limited to information that is factually inaccurate, incomplete, irrelevant, or untimely (obsolete).

NOTIFICATION PROCEDURES:

An individual who wishes to know if this system of records contains a record about that individual must write to the relevant System Manager and provide the same information described under ''Record Access Procedures,'' including identity verification information.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

81 FR 46686 (July 18, 2016), 83 FR 6591 (Feb. 14, 2018).

NOTICE OF RESCINDMENT:

For the reason stated in the **SUPPLEMENTARY INFORMATION** section at II., the following system of records is rescinded:

SYSTEM NAME AND NUMBER:

ORR Unaccompanied Refugee Minors Records, 09–80–0329.

HISTORY:

81 FR 46690 (July 18, 2016), 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2022–02535 Filed 2–7–22; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Proposed Collection; Public Comment Request; of the One Protection and Advocacy Annual Program Performance Report OMB #0985–0063

AGENCY: Administration for Community Living, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This IC Revision solicits comments on the information collection requirements relating to the One Protection and Advocacy Annual Program Performance Report [OMB #0985–0063].

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by April 11, 2022.

ADDRESSES: Submit electronic comments on the collection of information to: Ophelia McLain, ((202) 795–7401 *ophelia.mclain@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC 20201, Attention: Ophelia McLain.

FOR FURTHER INFORMATION CONTACT: Ophelia McLain, (202) 795–7401 *ophelia.mclain@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor.

''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

This is a revision to a currently approved information collection (IC), the Department replaced four existing Protection and Advocacy Program Performance Reports under one IC in March 2019. This is termed One-PPR. The four annual reports included the following: (1) Developmental Disabilities Protection and Advocacy Systems Program Performance Report, (2) Protection and Advocacy for Assistive Technology (PAAT) Program Performance Report; (3) Protection and Advocacy Voting Access Annual Report (Help America Vote Act) (HAVA); and (4) Protection and Advocacy for Traumatic Brain Injury (PATBI) Program Performance Report. This revision includes data elements based on funding from the Centers for Disease Control and Prevention to increase access to COVID–19 vaccines (ACCESS), and expand the Public Health Workforce (PHWF), provided under Section 2501 of the American Rescue Plan Act of 2021 (Pub. L. 117–2). Each P&A submits one report (One-PPR) for four funding sources, administered by ACL. As with each funding source, there is a reporting requirement. In an effort to reduce the burden of the P&As, each will continue to submit one report for all funding sources; however, as of FY2022, the report will incorporate the activities undertaken for the ACCESS and PHWF funding, by creating a new goal or priority in Part 2C, and adding the narrative in Part 2.C.4 (Rationale for Adding/Changing Goal) or 2.C.5 (Rationale for Adding/Changing Priority). The guidance document provides a description of the data elements to be included in this section of the One-PPR template.

State Protection and Advocacy (P&A) Systems in each State and Territory provide individual legal advocacy, systemic advocacy, monitoring and investigations to protect and advance the rights of people with developmental disabilities, using funding administered by the Administration on Disabilities (AoD), Administration for Community Living, HHS. To meet statutory reporting requirements, P&As use these forms for submitting annual reports.

The PPRs are reviewed by federal staff for compliance and outcomes. Information in the reports is analyzed to create a national profile of programmatic compliance, outcomes, and goals and priorities for P&A Systems for tracking accomplishments against goals and to formulate areas of technical assistance related to compliance with Federal requirements. Information collected informs AoD of trends in P&A advocacy, facilitate collaboration with other federally funded entities, and identify best practices for the efficient use of federal funds. Additionally, the information is used to provide a national perspective on where the program is going (prospective view), and to provide a gage for program accomplishments against program objectives for purposes of identifying continuing challenges and formulating technical assistance and management support provided to P&A systems.

The proposed data collection tools may be found on the ACL website for review at: *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden

The following table summarizes the burden hour estimate for this information collection:

Number of states	Number of responses per state	Average burden hours per state	Total hours
57	1	144	8208

The estimates of annual burden to the States vary in accordance with the size, program complexity, and technological capacity of the States. The annual burden on this form is estimated to be 144 hours, which is an increase of 16 hours from the previous instrument.

PPR	Annual hours estimate (based on previous OMB burden estimates)
PADD	90
PAAT	16
PATBI	16
HAVA	20
ACCESS	10
PHWF	6
ONE PPR	144

Dated: February 3, 2022.

Alison Barkoff,

Principal Deputy Administrator.

[FR Doc. 2022–02577 Filed 2–7–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; Process Evaluation of the Aging Network and Its Return on Investment; OMB #0985–New

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that

the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to the information collection requirements for the Process Evaluation of the Aging Network and its Return on Investment [OMB #0985–New].

DATES: Submit written comments on the collection of information by March 10, 2022.

ADDRESSES: Submit written comments and recommendations for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. By mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Caryn Bruyere, Office of Performance and Evaluation. Administration for Community Living Telephone: 202–795–7393 Email: *caryn.bruyere@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance. The Administration for Community Living (ACL) is requesting approval to collect data for the Process Evaluation of the Aging Network and its Return on Investment [OMB #0985–New]. Many older adults have unmet health care and social service needs, which require coordinated care across a range of services, including access to nutritious meals, transportation, preventive health care, home and community-based care, social interaction, support for family caregivers, and advocacy to help maintain older adults' safety, dignity, and legal rights. This proposed data collection for the Process Evaluation of the Aging Network and its Return on Investment is intended to provide timely information on, (1) how agencies in the Aging Network collaborate to serve older adults and family caregivers, and (2) how agencies measure the effectiveness of their efforts with the goal of strengthening their reach and impact. Through this data collection ACL will investigate how states differ in their network structure, how agencies work together, and potential strategies for evaluating return on investments (ROI) of ACL programs.

The Process Evaluation of the Aging Network and its Return on Investment will include: (1) A census of agencies in the Aging Network, and (2) key informant interviews with agencies that are evaluating ROI. The survey seeks to collect data from all State Units on Aging (SUAs), Area Agencies on Aging (AAAs) (including some Aging and Disability Resource Centers), and Older Americans Act Title VI Native American tribal organizations. Surveying these organizations will help ACL understand how and with whom agencies in the network collaborate to address the needs of older adults and family caregivers, partnerships that have formed or expanded because of COVID–19, and how agencies measure the effectiveness and ROI of their various programs. The study will also include key informant interviews with a subset of 10 agencies that responded to the survey whose responses indicate that their agency is evaluating ROI. The data collection team will ask in-depth questions about the costs and benefits included in ROI calculations, successes and challenges to evaluating ROI, and lessons learned that could benefit other agencies seeking to conduct their own assessment of ROI.

Comments in Response to the 60-Day Federal Register Notice

A notice published in the **Federal Register** on, August 30, 2021 in 86 FR 48428. There were no substantive public comments received during the 60-day FRN.

Estimated Program Burden: ACL estimates the burden associated with this collection of information as follows:

The proposed data collection estimates the average burden per response to be 0.17 hours for the Aging Network survey. The average burden per response for the key informant interviews estimated as 1 hour.

Data collection activity	Annual number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Annual estimated burden hours
Aging Network survey	864	1	864	0.25	216
Key informant interview guide	10	1	10	1	10
Total	874	Varies	874	0.26 (weighted mean).	226

Dated: February 3, 2022.

Alison Barkoff,

Principal Deputy Administrator.

[FR Doc. 2022–02578 Filed 2–7–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–1051]

Clinical Pharmacology Considerations for Antibody-Drug Conjugates; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Clinical Pharmacology Considerations for Antibody-Drug Conjugates,'' which provides recommendations for the development of antibody-drug conjugates (ADCs). Specifically, this guidance addresses the FDA's current thinking regarding clinical pharmacology considerations and recommendations for ADC development programs, including bioanalytical methods, dose selection and adjustment, dose- and exposure-response analysis, intrinsic factors, QTc assessments, immunogenicity, and drug-drug interactions (DDIs). Currently, there are

no FDA guidances outlining the clinical pharmacology considerations for antibody-drug conjugates. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by May 9, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–D–1051 for ''Clinical Pharmacology Considerations for Antibody-Drug Conjugates.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or to Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Kimberly Maxfield, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 209903, 301–348–1978, *Kimberly.Maxfield@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Clinical Pharmacology Considerations for Antibody-Drug Conjugates.'' An ADC is a type of therapeutic biologic product that is composed of a small-molecule moiety and an antibody moiety conjugated together by a chemical linker. An antibody or antibody fragment carrier is selected or engineered against a specific antigen of interest present on the target, which is ideally unique to the disease state being treated (*e.g.,* a tumor-specific antigen). In general, when the antibody or antibody fragment binds to its target antigen, the ADC is internalized through physiological mechanisms (*e.g.,* endocytosis), at which point the small-molecule drug or payload moiety is released either upon exposure to the low pH of the lysosome or by degradation of the antibody/linker by lysosomal enzymes. The released small-molecule drug then exerts its effect in the targeted cell (*e.g.,* the cells expressing the specific antigen of interest) while, ideally, minimizing the effect on healthy cells (*e.g.,* cells that do not express the specific antigen of interest).

ADCs combine the selectivity of an antibody or antibody fragment with the potency of a small molecule. Therefore, development of ADCs requires careful consideration of the differences between the clinical pharmacology of the antibody or antibody fragment and the small molecule. This draft guidance addresses FDA's current thinking regarding clinical pharmacology considerations and recommendations for ADC development programs, including bioanalytical methods, dose selection and adjustment, dose- and exposure-response analysis, intrinsic factors, QTc assessments, immunogenicity, and DDIs. Although

this draft guidance is primarily based on FDA's experience with ADCs for oncology indications, the principles discussed in this guidance are also generally applicable to the development of ADCs for other indications.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Clinical Pharmacology Considerations for Antibody-Drug Conjugates.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this draft guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information for submissions of investigational new drug applications, new drug applications, and biologic license applications in 21 CFR parts 312, 314, and 601 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0338, respectively. In addition, the submission of prescription drug labeling under 21 CFR 201.56 and 201.57 has been approved under OMB control number 0910–0572. The collections of information in 21 CFR part 211 have been approved under OMB control number 0910–0139; and the collections of information regarding good laboratory practice in 21 CFR part 58 have been approved under OMB control number 0910–0119.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs*, *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances*, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.regulations.gov*.

Dated: February 1, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–02604 Filed 2–7–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2005–N–0101]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Prescription Drug User Fee Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments (including recommendations) on the collection of information by March 10, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0297. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Prescription Drug User Fee Program

OMB Control Number 0910–0297—Revision

This information collection supports implementation of the Food and Drug Administration Prescription Drug User Fee Act (PDUFA) program. PDUFA was enacted in 1992 and authorizes FDA to collect fees from companies that produce certain human drug and biological products. Under the prescription drug user fee provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (sections 735 and 736 (21 U.S.C. 379g and 379h)), we have the authority to assess and collect user fees for certain new drug applications (NDAs) and new biologics license applications (BLAs). Under this authority, pharmaceutical companies pay a fee for certain new NDAs and BLAs submitted to FDA for review. We have established a PDUFA page on our website at *https://www.fda.gov/forindustry/userfees/prescriptiondruguserfee/* that includes resources and information regarding PDUFA topics at FDA.

Because the submission of user fees concurrently with applications is required, review of an application by FDA cannot begin until the fee is submitted. To assist respondents in this regard, we developed Form FDA 3397 entitled ''PDUFA Cover Sheet.'' Additional information and associated instructions may be found on our website at *https://www.fda.gov/industry/fda-user-fee-programs.* The cover sheet (Form FDA 3397) need not be submitted for certain FDA-regulated products, *e.g.,* generic drugs, and whole blood and blood components for transfusion. The list of exempted products is included under the instructions to Form FDA 3397. Relatedly, sections 735 and 736 of the FD&C Act also provide for waiver, reduction, refund, and reconsideration requests. We developed the guidance document entitled ''Guidance for Industry—Prescription Drug User Fee Act Waivers, Reductions, and Refunds for Drug and Biological Products,'' and Form FDA 3971 (Small Business Waiver and Refund Request), which can be found on our website at *https://www.fda.gov/media/131797/download.*

We are revising the collection to include our current commitment goals, as set forth in the document ''PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2018 Through 2022,'' also found on our website at *https://www.fda.gov/media/99140/download.* PDUFA is currently authorized through September 30, 2022, with reauthorization activities currently underway. The commitment goals represent the product of FDA's discussions with the regulated industry and public stakeholders, as mandated by Congress. FDA is committed to meeting these goals and to continuous

operational improvements associated with PDUFA implementation. The commitment goals provide for the development and issuance of topic-specific guidance. We maintain a searchable guidance database on our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* In publishing the respective notices of availability for each guidance document, we include an analysis under the PRA and invite public comment on the associated information collection recommendations. In addition, all Agency guidance documents are issued in accordance with our good guidance practice regulations in 21 CFR 10.115, which provide for public comment at any time.

In the **Federal Register** of November 30, 2021 (86 FR 67958), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of the collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Prescription drug user fee activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Sections 735 and 736 of the FD&C Act (PDUFA waivers, not including small business waivers)	112	1.68	189	17	3,213
Section 736(d)(1)(C) of the FD&C Act and Form FDA 3971 (small business waivers)	37	1	37	2	74
Reconsideration Requests	6	1.67	10	24	240
Appeal Requests	1	1	1	12	12
User Fee Cover Sheet Form FDA 3397	174	1	174	0.5 (30 minutes)	87
Total			411		3626

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of Agency records, we estimate that the number of initial waiver requests submitted annually (excluding small business waiver requests under section 736(d)(1)(C)) of the FD&C Act) will be 189, submitted by 112 different applicants; and that 37 respondents annually will each submit a small business waiver request. We have included in the burden estimate the time for preparation and submission of application fee waivers for small businesses, including completion of Form FDA 3971. Small businesses requesting a waiver must submit documentation to FDA, including the number of their employees, as well as information that the application is the first human drug application, within the meaning of the FD&C Act, to be submitted to the Agency for approval.

We estimate receiving 10 requests for reconsideration annually (including small business waiver reconsiderations) and assume the average burden for preparing and submitting each request is 24 hours. In addition, we estimate receiving 1 request annually for appeal of user fee waiver determination, and assume the time needed to prepare an appeal is 12 hours. We have included in this estimate both the time needed to prepare the request for appeal to the Chief Scientist and User Fee Appeals Officer within the Office of the Commissioner, and the time needed to create and send a copy of the request for an appeal to the Director Division of User Fee Management within the Office of Management at FDA's Center for Drug Evaluation and Research.

We assume 87 hours of burden for completing and submitting Form FDA 3397 (Prescription Drug User Fee Coversheet) for submission of a new drug application or biologics license application.

The information collection reflects an overall increase since our last request for OMB review and approval. We attribute this to expected fluctuations in submissions to the Agency.

Dated: February 2, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–02617 Filed 2–7–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3815]

Agency Information Collection Activities; Proposed Collection; Comment Request; Establishment Registration and Device Listing for Manufacturers and Importers of Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with establishment registration and device listing for manufacturers and importers of devices.

DATES: Submit either electronic or written comments on the collection of information by April 11, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 11, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 11, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–3815 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Establishment Registration and Device Listing for Manufacturers and Importers of Devices.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St, North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Establishment Registration and Device Listing for Manufacturers and Importers of Devices—21 CFR Part 807, Subparts A Through D

OMB Control Number 0910–0625—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360) and part 807, subparts A through D (21 CFR part 807, subparts A through D), medical device establishment owners and operators are required to electronically submit establishment registration and device listing information.

Complete and accurate registration and listing information is necessary to accomplish a number of statutory and regulatory objectives, such as: (1) Identification of establishments producing marketed medical devices, (2) identification of establishments producing a specific device when that device is in short supply or is needed for national emergency, (3) facilitation of recalls for devices marketed by owners and operators of device establishments, (4) identification and cataloging of marketed devices, (5) administering postmarketing surveillance programs for devices, (6) identification of devices marketed in violation of the law, (7) identification and control of devices imported into the country from foreign establishments, and (8) scheduling and planning inspections of registered establishments under section 704 of the FD&C Act (21 U.S.C. 374).

Respondents to this information collection are owners or operators of establishments that engage in the manufacturing, preparation, propagation, compounding, or processing of a device or devices, who must register their establishments and submit listing information for each of their devices in commercial distribution. Notwithstanding certain

exceptions, foreign device establishments that manufacture, prepare, propagate, compound, or process a device that is imported or offered for import into the United States must also comply with the registration and listing requirements. The number of respondents is based on data from the FDA Unified Registration and Listing System (FURLS). Burden estimates are based on recent experience with the medical device registration and listing program, electronic system operating experience, and previous data estimates.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours [2]
807.20(a)(5) [3] Initial submittal of manufacturer information by initial importers	4,125	1	4,125	1.75	7,219
807.20(a)(5) [4] Annual submittal of manufacturer information by initial importers	4,125	1	4,125	0.1	413
807.21(a) [3] Creation of electronic system account	5,355	1	5,355	0.5	2,678
807.21(b) [4] Annual request for waiver from electronic registration & listing	1	1	1	1	1
807.21(b) [3] Initial request for waiver from electronic registration & listing	1	1	1	1	1
807.22(a) [3] Initial registration & listing	5,355	1	5,355	1	5,355
807.22(b)(1) [4] Annual registration	28,496	1	28,496	0.5	14,248
807.22(b)(2) [4] Other updates of registration	2,671	1	2,671	0.5	1,336
807.22(b)(3) [4] Annual update of listing information	26,871	1	26,871	0.5	13,436
807.22(b)(4) Changes to listing information (outside of annual listing requirement period)					
Voluntary reporting of transfer of 510(k) clearance (outside of annual listing requirement period)	4,080	1	4,080	0.25	1,020
Submission of 510(k) transfer documentation when more than one party lists the same 510(k)	2,033	1	2,033	4	8,132
807.26(e) [4] Labeling & advertisement submitted at FDA request	9	1	9	1	9
807.34(a) [3] Initial registration & listing when electronic filing waiver granted	1	1	1	1	1
807.34(a) [4] Annual registration & listing when electronic filing waiver granted	1	1	1	1	1
807.40(b)(3) [4] Annual update of U.S. agent information	6,101	1	6,101	0.5	3,051
807.40(b)(2) [4] U.S. agent responses to FDA requests for information	1,535	1	1,535	0.25	384
807.41(a) [4] Identification by foreign establishments of importers, defined in 21 CFR 807.3, of the establishment's devices	14,017	1	14,017	0.5	7,009
807.41(b) [4] Identification of other importers (defined in 21 CFR 807.3(x) and (y)) that facilitate import by foreign establishments	14,017	1	14,017	0.5	7,009
Total one-time burden	.....	.....	.....	.....	.....
Total recurring burden	.....	.....	.....	.....	.....

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Totals are rounded to the nearest whole number.
[3] One-Time Burden—Firm only provides initially.
[4] Recurring Burden—Firm is required to review annually.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of respondents	Annual frequency per recordkeeper	Total annual records	Hours per record	Total hours
807.25(d) [2] Labeling & advertisements available for review	17,032	4	68,128	.5	34,064
807.26 [2] List of officers, directors & partners	33,851	1	33,851	.25	8,463
Total	.....	.....	.....	.....	42,527

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Recurring burden—Firm is required to keep records.

The estimates for creation of new user accounts under § 807.21(a) are based on the recent number of owners or operators. An owner or operator only creates an account one time when they register for the first time (initial registration). Once the account is created, the owner or operator uses the account as long as the establishment is

registered. If an owner or operator changes, the new owner or operator creates a new owner or operator account and transfers the ownership of the establishment to their owner or operator account. Once they create an owner or operator account, they use the account for as long as the company is registered. Under § 807.22(b)(4), changes to listing information may be made at times outside of the annual listing requirement period, such as when a change is made to a previously listed device.

The draft guidance document entitled ''Transfer of a Premarket Notification (510(k)) Clearance—Questions and Answers'' (December 2014), which contained instructions for the proposed voluntary information collection, has recently been withdrawn. While notification of transfer of ownership information is not currently required, our medical device registration and listing website [1] communicates procedures for notifying FDA of the transfer of a premarket notification (510(k)) clearance from one person to another. The notification is used to ensure public information in FDA's databases about the current 510(k) holder for a specific device(s) is accurate and up to date. Although submission of information regarding the transfer of a 510(k) clearance is not required under the regulations, we regularly receive such notifications from respondents.

FDA estimates that annually 78 percent of 510(k)s may be initially listed or updated outside of the annual registration requirement (about 4,080 510(k)s per year). FDA estimates that it will take approximately 15 minutes for each listing, for a total reporting burden of 1,020 hours.

FDA estimates it will have 2,033 instances of more than one party claiming to be a 510(k) holder for a specific device as part of annual registration and listing. FDA reached this estimate by identifying the average number of unique 510(k) device listings entered in FURLS between fiscal years 2017 and 2019 that conflict with a listing already entered by another party (5,304), dividing that number by the number of years (3) and multiplying by the average number of parties claiming to be the 510(k) holder when there is a conflict in the current FURLS database (2.3), then dividing the result by 2 (because only one company per listing will submit the appropriate documentation to show that they are the current 510(k) holder).

The registration and listing website identifies potential documentation a party could submit to FDA to establish the transfer of a 510(k) clearance to a new owner or operator. Based on the amount of time to locate the information, copy it, and submit a copy, FDA estimates it will take respondents approximately 4 hours to establish the transfer of a 510(k) clearance.

The estimate for § 807.25(d) in table 2 of this document (recordkeeping burden) reflects the requirement that owners or operators maintain a historical file containing the labeling and advertisements in use. The estimate for § 807.26 reflects the requirement that owners or operators keep a list of officers, directors, and partners for each establishment. Owners or operators will need to provide this information only when requested by FDA. However, it is assumed that some effort will need to be expended to keep such records current.

The recurring burden for the data collection under § 807.41 (import-related information provided by foreign companies exporting to the United States) was estimated based on data from previous years. Foreign companies identify one importer and one person who imports or offers for import with readily available contact information at the time of registration. After completing their initial registration, they are required to review the importer information annually. When they review the importer information annually, they simply verify the importer information is accurate. If it is and no changes are needed, the foreign establishment's official correspondent checks the certification and submits the annual registration. If they need to make changes to the importer information, they can do so at any time and use a spreadsheet to update more than one importer at a time to their registration. The use of the spreadsheet reduces the burden to the official correspondent of the foreign establishment.

Our estimated burden for the information collection reflects an overall increase of 10,880 hours and a corresponding increase of 28,430 responses/records. We attribute this adjustment to an increase in the number of submissions we received over the last few years. Additionally, we have included non-substantive changes, incorporating the burden previously approved under OMB control number 0910–0852 into OMB control number 0910–0625, as approved by OMB in May 2021.

Dated: February 2, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–02600 Filed 2–7–22; 8:45 am]

BILLING CODE 4164–01–P

[1] *https://www.fda.gov/medical-devices/how-study-and-market-your-device/device-registration-and-listing.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0294]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Contact Substance Notification Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by March 10, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0495. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Contact Substance Notification Program—21 CFR 170.101, 170.106, and 171.1

OMB Control Number 0910–0495—Extension

This information collection supports FDA regulations regarding Food Contact

Substance Notification, as well as associated guidance and accompanying forms. Section 409(h) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 348(h)) establishes a premarket notification process for food contact substances. Section 409(h)(6) of the FD&C Act defines a ''food contact substance'' as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'' Section 409(h)(3) of the FD&C Act requires that the notification process be used for authorizing the marketing of food contact substances except when: (1) We determine that the submission and premarket review of a food additive petition (FAP) under section 409(b) of the FD&C Act is necessary to provide adequate assurance of safety or (2) we and the manufacturer or supplier agree that an FAP should be submitted. Section 409(h)(1) of the FD&C Act requires that a notification include: (1) Information on the identity and the intended use of the food contact substance and (2) the basis for the manufacturer's or supplier's determination that the food contact substance is safe under the intended conditions of use.

Sections 170.101 and 170.106 of FDA's regulations (21 CFR 170.101 and 170.106) specify the information that a notification must contain and require that: (1) A food contact substance notification (FCN) includes Form FDA 3480 and (2) a notification for a food contact substance formulation includes Form FDA 3479. These forms serve to summarize pertinent information in the notification. The forms facilitate both preparation and review of notifications because the forms will serve to organize information necessary to support the safety of the use of the food contact substance. The burden of filling out the appropriate form has been included in the burden estimate for the notification.

Currently, interested persons transmit an FCN submission to the Office of Food Additive Safety in the Center for Food Safety and Applied Nutrition using Form FDA 3480 whether it is submitted in electronic or paper format. We estimate that the amount of time for respondents to complete Form FDA 3480 will continue to be the same.

In addition to its required use with FCNs, Form FDA 3480 is recommended to be used to organize information within a Pre-notification Consultation or Master File submitted in support of an FCN according to the items listed on the form. Master Files can be used as repositories for information that can be referenced in multiple submissions to FDA, thus minimizing paperwork burden for food contact substance authorizations. We estimate that the amount of time for respondents to complete the Form FDA 3480 for these types of submissions is 0.5 hours.

FDA recommends using Form FDA 3480A for each submission of additional information (*i.e.,* amendment) to an FCN submission of Pre-notification Consultation currently under Agency review, as well as for Master Files. Form FDA 3480A helps the respondent organize the submission to focus on the information needed for FDA's safety review. We estimate that the amount of time for respondents to complete the Form FDA 3480A for these types of submissions is 0.5 hours. The forms are available at *https://www.fda.gov/food/food-ingredients-packaging/packaging-food-contact-substances-fcs.* To open field fillable forms, they must be downloaded and then opened from your local computer (not from a web browser).

FDA's guidance documents entitled: (1) ''Preparation of Food Contact Notifications: Administrative,'' (2) ''Preparation of Food Contact Notifications and Food Additive Petitions for Food Contact Substances: Chemistry Recommendations,'' and (3) ''Preparation of Food Contact Notifications for Food Contact Substances: Toxicology Recommendations'' provide assistance to industry regarding the preparation of an FCN and a petition for food contact substances (FCSs). FDA also issued a guidance entitled, ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.'' The guidance provides assistance to industry regarding the preparation of an FCN for FDA review and evaluation of the safety of FCSs used in contact with infant formula and/or human milk. These guidances are available at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocuments RegulatoryInformation/IngredientsAdditivesGRASPackaging/default.htm.*

Section 171.1 of FDA's regulations (21 CFR 171.1) specifies the information that a petitioner must submit in order to: (1) Establish that the proposed use of an indirect food additive is safe and (2) secure the publication of an indirect food additive regulation in parts 175 through 178 (21 CFR parts 175 through 178). Parts 175 through 178 describe the conditions under which the additive may be safely used.

In addition, FDA's guidance entitled ''Use of Recycled Plastics in Food Packaging: Chemistry Considerations,'' provides assistance to manufacturers of food packaging in evaluating processes for producing packaging from post-consumer recycled plastic. The recommendations in the guidance address the process by which manufacturers certify to FDA that their plastic products are safe for food contact.

Description of Respondents: The respondents to this information collection are manufacturers of food contact substances sold in the United States. Respondents are from the private sector.

In the **Federal Register** of September 15, 2021 (86 FR 51358), FDA published a 60-day notice requesting public comment on the proposed collection of information. Although one comment was received, it was not responsive to the four collection of information topics solicited.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
170.106 [2] (Category A)	3479	10	2	20	2	40
170.101 [3] [7] (Category B)	3480	6	1	6	25	150
170.101 [4] [7] (Category C)	3480	6	2	12	120	1,440
170.101 [5] [7] (Category D)	3480	42	2	84	150	12,600
170.101 [6] [7] (Category E)	3480	38	1	38	150	5,700
Pre-notification Consultation or Master File (concerning a food contact substance) [8].	3480	150	1	150	0.5 (30 minutes)	75

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section; activity	Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Amendment to an existing notification (170.101), amendment to a Pre-notification Consultation, or amendment to a Master File (concerning a food contact substance) [9].	3480A	80	1	80	0.5 (30 minutes)	40
171.1; Indirect Food Additive Petitions	N/A	1	1	1	10,995	10,995
Use of Recycled Plastics in Food Packaging: Chemistry Considerations.	N/A	65	1	65	25	1,625
Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.		2	1	2	5	10
Total						32,675

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Notifications for food contact substance formulations and food contact articles. These notifications require the submission of Form FDA 3479 (''Notification for a Food Contact Substance Formulation'') only.
[3] Duplicate notifications for uses of food contact substances.
[4] Notifications for uses that are the subject of exemptions under 21 CFR 170.39 and very simple food additive petitions.
[5] Notifications for uses that are the subject of moderately complex food additive petitions.
[6] Notifications for uses that are the subject of very complex food additive petitions.
[7] These notifications require the submission of Form FDA 3480.
[8] These notifications recommend the submission of Form FDA 3480.
[9] These notifications recommend the submission of Form FDA 3480A.

Based on a review of the information collection since our last request for OMB approval, we made adjustments to our burden estimate. The estimates are based on our current experience with the Food Contact Substance Notification Program and informal communication with industry.

Our estimated burden for the information collection reflects an overall increase of 1,345 hours and a corresponding decrease of 5 responses. We attribute this adjustment to a decrease in Pre-Notification Consultations or Master Files by 40 responses, a subsequent decrease of amendments to Pre-Notification Consultations or Master Files by 20 responses, and an increase of 55 respondents using the recommendations in the guidance document entitled ''Use of Recycled Plastics in Food Packaging: Chemistry Considerations.'' As the average burden for preparing recycling submissions is higher than for Pre-notification Consultations or Master Files, this results in an overall increase in total burden even with an overall decrease in responses.

Dated: February 2, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–02620 Filed 2–7–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the National Advisory Council on the National Health Service Corps

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the National Advisory Council on the National Health Service Corps (NACNHSC) will hold public meetings for the 2022 calendar year (CY). Information about NACNHSC, agendas, and materials for these meetings can be found on the NACNHSC website at: *https://www.hrsa.gov/advisory-committees/national-health-service-corps.*

DATES: NACNHSC meetings will be held on:

- March 29, 2022, 9:00 a.m.–5:00 p.m. Eastern Time (ET) and March 30, 2022, 9:00 a.m.–2:00 p.m. ET;
- June 28, 2022, 9:00 a.m.–5:00 p.m. ET and June 29, 2022, 9:00 a.m.–2:00 p.m. ET; and
- November 15, 2022, 9:00 a.m.–5:00 p.m. ET and November 16, 2022, 9:00 a.m.–2:00 p.m. ET.

ADDRESSES: Meetings may be held in-person, by teleconference, and/or ZOOM. For updates on how meetings will be held, visit the NACNHSC website 30 business days before the date of the meeting, where instructions for joining meetings either in-person or remotely will be posted. In-person NACNHSC meetings will be held at 5600 Fishers Lane, Rockville, Maryland 20857. For meeting information updates, go to the meetings page on the NACNHSC website at *https://www.hrsa.gov/advisory-committees/national-health-service-corps/meetings.*

FOR FURTHER INFORMATION CONTACT: Diane Fabiyi-King, Designated Federal Official, Division of National Health Service Corps, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; phone (301) 443–3609; or *NHSCAdvisoryCouncil@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The NACNHSC consults with, advises, and makes recommendations to the Secretary of Health and Human Services with respect to the Secretary's responsibilities in carrying out *Subpart II,* Part D of Title III of the Public Health Service Act (42 U.S.C. 254d–254k), as amended, including the designation of areas of the United States with health professional shortages and assignment of National Health Service Corps (NHSC) clinicians to improve the delivery of health services in health professional shortage areas. Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. Refer to the meeting website listed above for any meeting updates.

For CY 2022 meetings, agenda items may include, but are not limited to, the identification of NHSC priorities for future program issues and concerns; proposed policy changes by using the varying levels of expertise represented on the NACNHSC to advise on specific program areas; updates from clinician workforce experts; and education and

practice improvement in the training development of primary care clinicians. More general items may include: Presentations and discussions on the current and emerging needs of the health workforce; public health priorities; health care access and evaluation; NHSC-approved sites; HRSA priorities and other federal health workforce and education programs that impact the NHSC.

Refer to the NACNHSC website listed above for all current and updated information concerning the CY 2022 NACNHSC meetings, including draft agendas and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the NACNHSC should be sent to Diane Fabiyi-King using the contact information above at least 5 business days before the meeting date(s).

Individuals who need special assistance or another reasonable accommodation should notify Diane Fabiyi-King using the contact information listed above at least 10 business days before the meeting(s) they wish to attend. If in-person meetings are held, they will occur in a federal government building and attendees must go through a security check to enter the building. All in-person attendees must follow the workplace safety protocols regarding COVID–19. Guidance is provided on the website *https://www.saferfederalworkforce.gov/*. Non-U.S. citizen attendees must notify HRSA of their planned attendance at an in-person meeting at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–02606 Filed 2–7–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mechanisms of Memory and Sound Processing.
Date: March 11, 2022.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451.4251, *Armaz.aschrafi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: HIV/AIDS Biological.
Date: March 14, 2022.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Shahrooz Vahedi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 810G, Bethesda, MD 20892, (301) 496–9322, *vahedis@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics B.
Date: March 15–16, 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: Ian Frederick Thorpe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–8662, *ian.thorpe@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; BRAIN Initiative: Targeted BRAIN Circuits Projects.
Date: March 16–17, 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: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: The Cancer Drug Development and Therapeutics (CDDT).
Date: March 17–18, 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: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Innate Immunity and Inflammatory Responses.
Date: March 17, 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: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, (301) 827–7728, *lguo@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Digestive Sciences Small Business Activities.
Date: March 17, 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: Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435–5947, *banerjees5@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.
Date: March 17–18, 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: Tera Bounds, Ph.D., DVM Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–613–2822, *boundst@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Hepatology.
Date: March 17, 2022.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Aster Juan, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–435–5000, *juana2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biology of Neurodegenerative Diseases.
Date: March 17, 2022.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jacek Topczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002A1, Bethesda, MD 20892, (301) 594–7574, *topczewskij2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Nephrology.
Date: March 18, 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: Stacey Nicole Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–867–5309, *stacey.williams@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bioengineering Science and Technology.
Date: March 18, 2022.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: James J. Li, Ph.D,. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 2, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–02527 Filed 2–7–22; 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: Population Sciences and Epidemiology Integrated Review Group; Biostatistical Methods and Research Design Study Section.
Date: March 3–4, 2022.
Time: 10:00 a.m. to 8:00 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: Victoriya Volkova, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, Bethesda, MD 20892, (301) 594–7781, *victoriya.volkova@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Adult Psychopathology.
Date: March 4, 2022.
Time: 12:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Alyssa Todaro Brooks, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 1000F, Bethesda, MD 20892, (301) 827–9299, *brooksaly@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology and Bioengineering.
Date: March 8–9, 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: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mobile Health in Low and Middle Income Countries.
Date: March 9–10, 2022.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Tara Roshell Earl, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007C, Bethesda, MD 20892, (301) 451–3946, *earltr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Sciences Small Business Activities.
Date: March 10–11, 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: Dmitri V. Gnatenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *gnatenkod2@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Neuroscience Assays, Diagnostics, Instrumentation, and Interventions.
Date: March 10–11, 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: Thomas Zeyda, Ph.D., Scientific Review Officer, The Center for Scientific Review National Institutes of Health 6701 Rockledge Drive Bethesda, MD 20892, (301) 480–6921, *thomas.zeyda@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.
Date: March 10–11, 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: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192,

MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

Date: March 10–11, 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: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomedical Sensing, Measurement and Instrumentation.

Date: March 10–11, 2022.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Immunopathogenesis and Vaccine Development Study Section.

Date: March 10–11, 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: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; HIV/AIDS Intra- and Inter-personal Determinants and Behavioral Interventions Study Section.

Date: March 10–11, 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: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 3, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–02598 Filed 2–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Resource Center for Tribal Epidemiological Centers.

Date: March 18, 2022.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–2061 *ivan.navarro@nih.gov.*

Dated: February 2, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–02529 Filed 2–7–22; 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; Rare Disease Review.

Date: March 2, 2022.

Time: 10:00 a.m. to 4:00 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: Jing Chen, 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) 827–3268, *chenjing@mail.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: February 2, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–02532 Filed 2–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Diabetes, Endocrinology and Metabolic Diseases B Study Section.

Date: March 9–11, 2022.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Video Meeting).

Contact Person: Charlene J. Repique, Ph.D., Scientific Review Officer, Review Branch, DEA NIDDK, National Institutes of Health, Room 7347, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *charlene.repique@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 2, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–02531 Filed 2–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of 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 Cancer Institute.

A portion of the meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 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 Cancer 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 Cancer Institute.

Date: March 7, 2022.

Open: 11:00 a.m. to 11:30 a.m.

Agenda: Remarks from the NCI Director.

Closed: 11:40 a.m. to 3:40 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Name of Committee: Board of Scientific Counselors, National Cancer Institute.

Date: March 8, 2022.

Closed: 11:00 a.m. to 2:45 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute, 9609 Medical Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian E. Wojcik, Ph.D., Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W414, Rockville, MD 20850, 240–276–5660, *wojcikb@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://deainfo.nci.nih.gov/advisory/bsc/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 3, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–02599 Filed 2–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0049]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0112

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0112, Enhanced Maritime Domain Awareness via Electronic Transmission of Vessel Transit Data; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before April 11, 2022.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2022–0049] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request For Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the

Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2022–0049], and must be received by April 11, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Enhanced Maritime Domain Awareness via Electronic Transmission of Vessel Transit Data.

OMB Control Number: 1625–0112.

Summary: The Coast Guard collects, stores, and analyzes data transmitted by Long Range Identification and Tracking (LRIT) and Automatic Identification System (AIS) to enhance maritime domain awareness (MDA). Awareness and threat knowledge are critical for securing the maritime domain and the key to preventing adverse events. Data is also used for marine safety and environmental protection purposes 46 U.S.C. 70114 and 70115 authorize the Secretary of the Department of Homeland Security (DHS) to establish the AIS and LRIT requirements. This authority is delegated by the Secretary to the Coast Guard via the Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2. (II)(97.j and k).

Need: To ensure port safety and security and to ensure the uninterrupted flow of commerce.

Forms: None.

Respondents: Owners or operators of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains 52,728 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 1, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–02566 Filed 2–7–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0048]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0039

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0039, Declaration of Inspection Before Transfer of Liquid Cargo in Bulk; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before April 11, 2022.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2022–0048] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek

an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2022–0048], and must be received by April 11, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Declaration of Inspection Before Transfer of Liquid Cargo in Bulk.

OMB Control Number: 1625–0039.

Summary: A Declaration of Inspection (DOI) documents the transfer of oil and hazardous materials, to help prevent spills and damage to a facility or vessel. Persons-in-charge of the transfer operations must review and certify compliance with procedures specified by the terms of the DOI.

Need: 46 U.S.C. 3703 authorizes the Secretary of the Department of Homeland Security (DHS) to establish regulations to prevent the discharge of oil and hazardous material from vessels and facilities. This authority is delegated by the Secretary to the Coast Guard via the Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2. (II)(92.b).The DOI regulations appear at 33 CFR 156.150 and 46 CFR 35.35–30.

Forms: None.

Respondents: Persons-in-charge of transfers.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains 80,051 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 1, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–02568 Filed 2–7–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Solicitation; request for applicants for appointment to the National Advisory Council; correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a document in the **Federal Register** of January 31, 2022, concerning a request for applicants for appointment to the National Advisory Council. The document contained an incorrect link.

FOR FURTHER INFORMATION CONTACT: Rob Long, Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency; *FEMA-NAC@fema.dhs.gov,* 202.646.2700.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 31, 2022, in FR Doc. 87–4900, on page 4900, in the second column, correct the **SUPPLEMENTARY INFORMATION** caption to read:

The NAC is an advisory council established in accordance with the provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. Appendix. As required by PKEMRA, the Secretary of Homeland Security established the NAC to ensure effective and ongoing coordination of federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters. FEMA is requesting that individuals who are interested in and qualified to serve on the NAC apply for appointment to an open position in one of the following discipline areas: Climate Change (Special Government Employee (SGE)); Cybersecurity (SGE); Disabilities, Access, and Functional Needs (Representative (Rep.)); Elected State Officials (Rep.); Emergency Management (Rep.); Emergency Medical Provider (Rep.); Non-Elected Local Official (Rep.); Non-Elected State Government Officials (Rep.); Public Health (SGE); and two (2) Standards Setting and Accrediting (Rep.).The Administrator may appoint up to three (3) additional candidates to serve as FEMA Administrator Selections (as SGE appointments). Please visit: *https://www.fema.gov/about/offices/national-advisory-council/meetings/membership-applications* for further information on expertise required to fill these positions. Appointments will be for 3-year terms, or for the remainder of an existing term that is open. Appointments begin in December 2022.

The NAC Charter contains more information and can be found at: *https://www.fema.gov/sites/default/files/documents/fema_nac-amended-charter_102921.pdf.*

If you are interested, qualified, and want FEMA to consider appointing you to fill an open position on the NAC, please submit an application package to the Office of the NAC as listed in the **ADDRESSES** section of this notice. There is no application form; however, each application package MUST include the following information:

- Cover letter, addressed to the Office of the NAC, that includes or indicates: Current position title and employer or organization you represent, home and work addresses, and preferred telephone number and email address; the discipline area position(s) for which you would like consideration; why you are interested in serving on the NAC; and how you heard about the solicitation for NAC members;
- A summary of the most important accomplishments that qualify you to serve on the NAC, in the form of three to five bullets in less than 75 words total;
- Resume or Curriculum Vitae (CV); and
- One Letter of Recommendation addressed to the Office of the NAC.

Your application package must be less than eight total pages to be considered by FEMA. Information contained in your application package should clearly indicate your qualifications to serve on the NAC and fill one of the current open positions. FEMA will not consider incomplete applications. FEMA will review the information contained in application packages and make selections based on: (1) Leadership attributes; (2) emergency management experience; (3) expert knowledge in

identified discipline area; and (4) ability to meet NAC member expectations. FEMA will also consider overall NAC composition, including diversity (including, but not limited to geographic, demographic, and experience) and a mix of officials, emergency managers, and emergency response providers from state, local, tribal, and territorial governments, when selecting members.

Appointees may be designated as a Special Government Employee (SGE) as defined in section 202(a) of Title 18, U.S.C., as a Representative member, or as a Regular Government Employee (RGE). SGEs speak in a personal capacity as experts in their field and Representative members speak for the stakeholder group they represent. Candidates selected for appointment as SGEs are required to complete a new entrant Confidential Financial Disclosure Form (Office of Government Ethics (OGE) Form 450) each year. You can find this form at the Office of Government Ethics website (*http://www.oge.gov*). However, please do not submit this form with your application.

The NAC generally meets in person twice per year. FEMA does not pay NAC members for their time, but may reimburse travel expenses such as airfare, hotel lodging, and other transportation costs within Federal Travel Regulations when pre-approved by the Designated Federal Officer. NAC members must serve on one of the NAC subcommittees, which meet regularly by virtual means, usually teleconference call. FEMA estimates the total time commitment for subcommittee participation to be 2 hours per week (more for NAC leadership).

DHS does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, marital status, political affiliation, disability and genetic information, age, membership in an employee organization, or other non-merit factor. In order for the Administrator to fully leverage broad-ranging experience and education, the NAC must be diverse with regard to professional and technical expertise. The Administrator will also pursue opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people, and will strive to achieve a widely diverse candidate pool for all NAC recruitment actions. Current DHS and FEMA employees, including FEMA Reservists, are not eligible for membership. Federally registered lobbyists may apply for positions designated as Representative appointments but are not eligible for positions that are designated as SGE appointments.

Dated: February 2, 2022.

Shabnaum Q. Amjad,

Acting Associate Chief Counsel, Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency.

[FR Doc. 2022–02550 Filed 2–7–22; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2022–0008]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Committee management; notice of federal advisory committee meeting.

SUMMARY: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, February 22, 2022, via virtual conference. The meeting will be open to the public.

DATES: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, February 22, 2022, from 10:30 a.m. to 12:00 p.m. E.S.T. Please note that the virtual conference may end early if the Committee has completed its business.

ADDRESSES: The meeting will be held via a virtual forum (conference information will be posted on the Privacy Office website in advance of the meeting at *www.dhs.gov/privacy-advisory-committee*), or call (202) 343–1717, to obtain the information. For information on services for individuals with disabilities, or to request special assistance during the meeting, please contact Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

To facilitate public participation, we invite public comment on the issues to be considered by the Committee as listed in the **SUPPLEMENTARY INFORMATION** section below. A public comment period will be held during the meeting, and speakers are requested to limit their comments to 3 minutes. If you would like to address the Committee at the meeting, we request that you register in advance by contacting Sandra L. Taylor at the address provided below. The names and affiliations of individuals who address the Committee will be included in the public record of the meeting. Please note that the public comment period may end before the time indicated, following the last call for comments. Advanced written comments or comments for the record, including persons who wish to submit comments and who are unable to participate or speak at the meeting, should be sent to Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, by February 15, 2022. All submissions must include the Docket Number (DHS–2022–0008) and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PrivacyCommittee@hq.dhs.gov.* Include the Docket Number (DHS–2022–0008) in the subject line of the message.
- *Fax:* (202) 343–4010.
- *Mail:* Sandra L. Taylor, Designated Federal Officer, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue SE, Mail Stop 0655, Washington, DC 20598.

Instructions: All submissions must include the words ''Department of Homeland Security Data Privacy and Integrity Advisory Committee'' and the Docket Number (DHS–2022–0008). Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

The DHS Privacy Office encourages you to register for the meeting in advance by contacting Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, at *PrivacyCommittee@hq.dhs.gov.* Advance registration is voluntary. The Privacy Act Statement below explains how DHS uses the registration information you may provide and how you may access, or correct information retained by DHS, if any.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov* and search for docket number DHS–2022–0008.

FOR FURTHER INFORMATION CONTACT: Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue SE, Mail Stop 0655, Washington, DC 20598, by telephone (202) 343–1717, by fax (202) 343–4010, or by email to *PrivacyCommittee@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA). The DHS Data Privacy and Integrity Advisory Committee provides advice at the request of the Secretary of Homeland Security and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within DHS that relate to personally identifiable information, as well as data integrity, transparency, information sharing, and other privacy-related matters. The Committee was established by the Secretary of Homeland Security under the authority of 6 U.S.C. 451.

Proposed Agenda

During the meeting, Chief Privacy Officer Lynn Parker Dupree will provide an update on the Privacy Office activities. In addition, the Committee will provide updates on its taskings from the DHS Chief Privacy Officer on October 27, 2020 to consider DHS's transition to cloud service technologies and the enhanced capabilities this transition has provided the Department during the COVID–19 telework environment to determine the privacy risks and provide written guidance on best practices to ensure the effective implementation of privacy requirements for information sharing across the DHS enterprise. If you wish to submit written comments, you may do so in advance of the meeting by submitting them to Docket Number (DHS–2022–0008) at *www.regulations.gov* or by forwarding them to the Committee at the locations listed under **ADDRESSES**. The final agenda will be posted on or before February 15, 2022, on the Committee's website at *www.dhs.gov/dhs-data-privacy-and-integrity-advisory-committee-meeting-information.*

Privacy Act Statement: DHS's Use of Your Information

Authority: DHS requests that you voluntarily submit this information under its following authorities: The Federal Records Act, 44 U.S.C. 3101; the FACA, 5 U.S.C. appendix; and the Privacy Act of 1974, 5 U.S.C. 552a.

Principal Purposes: When you register to attend a DHS Data Privacy and Integrity Advisory Committee meeting, DHS collects your name, contact information, and the organization you represent, if any. We use this information to contact you for purposes related to the meeting, such as to confirm your registration, to advise you of any changes in the meeting, or to assure that we have sufficient materials to distribute to all attendees. We may also use the information you provide for public record purposes such as posting publicly available transcripts and meeting minutes.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–002 Mailing and Other Lists System of Records Notice (November 25, 2008, 73 FR 71659).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to contact you for purposes related to the meeting.

Accessing and Correcting Information: If you are unable to access or correct this information by using the method that you originally used to submit it, you may direct your request in writing to the DHS Deputy Chief FOIA Officer at *foia@hq.dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Lynn Parker Dupree,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2022–02571 Filed 2–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7052–N–01]

60-Day Notice of Proposed Information Collection: Neighborhood Stabilization Program 2; OMB Control No.: 2506–0185

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow 60 days of public comment.

DATES: *Comments Due Date:* April 11, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone (202) 402–5535 (this is not a toll-free number) or email at *Anna.P.Gudio@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: C. Duncan Yetman, Jr., Deputy Director, Entitlement Communities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410; by email at *c.duncan.yetman@hud.gov* or telephone at (202) 402–7178. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Neighborhood Stabilization Program 2 (NSP2).

OMB Approval Number: 2506–0185.

Type of Request: Revision to, and Extension of, currently approved collection.

Form Number: N/A.

This information describes the reporting and recordkeeping requirements of the Neighborhood Stabilization Program 2 (NSP2). The data required includes program level, project level and beneficiary level information collected and reported on by NSP2 grantees. The data identifies who benefits from the NSP2 program and how statutory requirement are satisfied. The respondents are State, local government, non-profit and consortium applicants.

Respondents: NSP2 grantees are units of state and local governments, non-profits and consortium members.

Description of information collection	Number of respondents	Number of responses	Total number of responses	Hours per response	Total hours	Cost per response	Total cost
Neighborhood Stabilization Program (Year 1)							
Online Quarterly Reporting via DRGR	42.00	4.00	168.00	4.00	672.00	38.92	$27,946.24
DRGR voucher submissions	42.00	38.00	1,596.00	0.18	287.28	38.92	11,180.93
Annual Reporting via DRGR	14.00	1.00	14.00	3.00	42.00	38.92	1,634.64
Annual Income Certification Reporting	14.00	1.00	14.00	3.00	42.00	38.92	1,634,64
Total Paperwork Burden	112.00	44			1,043.28	38.92	40,761.81
(Year 2)							
Online Quarterly Reporting via DRGR	32.00	4.00	128.00	4.00	512.00	38.92	19,927.04
Quarterly Voucher Submissions	32.00	38.00	1216.00	0.18	218.88	38.92	8,520.36
Annual Reporting via DRGR	24.00	1.00	24.00	3.00	72.00	38.92	2,802.24
Annual Income Certification Reporting	24.00	1.00	24.00	3.00	72.00	38.92	2,802.24
Total Paperwork Burden	112.00				874.88	38.92	34,051.88
(Year 3)							
Online Quarterly Reporting via DRGR	22.00	4.00	88.00	4.00	352.00	38.92	13,699.84
Annual Reporting via DRGR	34.00	1.00	34.00	4.00	136.00	38.92	5,293.12
Quarterly Voucher Submissions	22.00	4.00	88.00	0.20	17.60	38.92	684.99
Annual Income Certification Reporting	34.00	1.00	34.00	3.00	102.00	38.92	3,969.84
Total Paperwork Burden	112.00				607.60	38.92	23,647.79

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

James Arthur Jemison II,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2022–02596 Filed 2–7–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[223D0102DB/AAKC00103/AAKC001030/A0A501010.999900 253G]

List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs and Fiscal Year 2022 Programmatic Targets

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice lists programs or portions of programs that are eligible for inclusion in self-governance funding agreements with Indian Tribes and lists Fiscal Year 2022 programmatic targets for each of the non-Bureau of Indian Affairs (BIA) bureaus in the Department of the Interior (Department), pursuant to Title IV of the Indian Self-Determination and Education Assistance Act (Act), as amended.

DATES: These programs are eligible for inclusion in self-governance funding agreements until September 30, 2022.

ADDRESSES: Inquiries or comments regarding this notice may be directed to Ms. Sharee M. Freeman, Director, Office of Self-Governance (MS 3624–MIB), 1849 C Street NW, Washington, DC 20240–0001, telephone: (202) 219–0240, fax: (202) 219–4246, or to the bureau-specific points of contact listed below.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, Office of Self-Governance, telephone: (202) 821–7107 or Vickie Hanvey, Office of Self Governance, telephone (918) 931–0745.

SUPPLEMENTARY INFORMATION:

I. Background

Title IV of the Act instituted a permanent self-governance program at the Department. Under the self-governance program, certain programs, services, functions, and activities, or portions thereof, in Department bureaus other than BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance Tribe.

Under section 412(c) of the Act, the Secretary of the Interior (Secretary) is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program and (2) programmatic targets for non-BIA bureaus.

Two categories of non-BIA programs are eligible for self-governance funding agreements:

(1) Under section 403(b)(2) of the Act, any non-BIA program, service, function, or activity that is administered by the Department that is ''otherwise available to Indian tribes or Indians,'' can be administered by a Tribe through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Act. Section 403(b)(2) also specifies, ''nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions

thereof, unless such preference is otherwise provided for by law.''

(2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of ''special geographic, historical, or cultural significance'' to a self-governance Tribe.

Under section 403(k) of the Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the Tribe. However, an Indian Tribe (or Tribes) need not be identified in the authorizing statutes in order for a program or element of program to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, the non-BIA bureaus will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances.

Subpart G of the self-governance regulations found at 25 CFR part 1000 provides the process and timelines for negotiating self-governance funding agreements with non-BIA bureaus.

Response to Comments

No comments were received.

II. Funding Agreements Between Self-Governance Tribes and Non-BIA Bureaus of the Department of the Interior for Fiscal Year 2022

A. Bureau of Land Management (2)
- Council of Athabascan Tribal Governments
- Duckwater Shoshone Tribe of the Duckwater Reservation

B. Bureau of Reclamation (4)
- Gila River Indian Community of the Gila River Indian Reservation
- Hoopa Valley Tribe
- Karuk Tribe
- Yurok Tribe of the Yurok Reservation

C. Office of Natural Resources Revenue (none)

D. National Park Service (4)
- Grand Portage Band of Lake Superior Chippewa Indians
- River Raisin National Battlefield Park
- Valles Caldera National Preserve
- Yurok Tribe of the Yurok Reservation

E. Fish and Wildlife Service (1)
- Council of Athabascan Tribal Governments

F. U.S. Geological Survey (none)

G. Office of the Special Trustee for American Indians (1)
- Confederated Salish and Kootenai Tribes of the Flathead Reservation

H. Appraisal and Valuation Services Office (30)
1. The Quapaw Tribe of Indians
2. Morongo Band of Mission Indians
3. Muckleshoot Indian Tribe
4. Pueblo of Taos
5. Confederated Tribes of the Umatilla Indian Reservation
6. Association of Village Council Presidents
7. Kawerak, Inc.
8. Native Village of Tanana
9. Tanana Chiefs Conference [includes Gwichyaa Gwich'in (aka Fort Yukon)]
10. Council of Tlingit and Haida Indian Tribes
11. Cherokee Nation
12. The Choctaw Nation of Oklahoma
13. Eastern Shawnee Tribe of Oklahoma
14. The Muscogee (Creek) Nation
15. Wyandotte Nation
16. Oneida Nation
17. Confederated Salish and Kootenai Tribes of the Flathead Reservation
18. Lummi Tribe of the Lummi Reservation
19. Port Gamble S'Klallam Tribes
20. Confederated Tribes of Siletz Indians of Oregon
21. Hoopa Valley Tribe
22. Redding Rancheria
23. Chippewa Cree Indians of the Rocky Boy's Reservation
24. Absentee-Shawnee Tribe of Indians of Oklahoma
25. Citizen Potawatomi Nation, Oklahoma
26. Kaw Nation, Oklahoma
27. Sac and Fox Nation, Oklahoma
28. Salt River Pima Maricopa Indian Community of the Salt River Reservation
29. Shoshone-Paiute Tribes of the Duck Valley Reservation Nevada
30. Osage Nation

III. Eligible Programs of the Department of the Interior Non-BIA Bureaus

Below is a listing by bureau of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance funding agreements because they are either ''otherwise available to Indians'' under Title I of the Act and not precluded by any other law, or may have ''special geographic, historical, or cultural significance'' to a participating Tribe. The list represents the most current information on programs potentially available to Tribes under a self-governance funding agreement.

The Department will also consider for inclusion in funding agreements other programs or activities not listed below, but which, upon request of a self-governance Tribe, the Department determines to be eligible under either sections 403(b)(2) or 403(c) of the Act. Tribes with an interest in such potential agreements are encouraged to begin discussions with the appropriate non-BIA bureau.

A. Eligible Bureau of Land Management (BLM) Programs

The BLM carries out some of its activities in the management of public lands through contracts and cooperative agreements. These and other activities, depending upon availability of funds, the need for specific services, and the self-governance Tribe's demonstration of a special geographic, cultural, or historical connection, may also be available for inclusion in self-governance funding agreements. Once a Tribe has made initial contact with the BLM, more specific information will be provided by the respective BLM State office.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This listing is not all-inclusive, but is representative of the types of programs that may be eligible for Tribal participation through a funding agreement:

Tribal Services

1. Minerals Management Inspection, enforcement and production verification of Indian coal and sand and gravel operations are already available for contracts under Title I of the Act and, therefore, may be available for inclusion in a funding agreement. In addition, in a study conducted pursuant to Secretarial order 3377, the Office of the Solicitor determined that the following functions are available for inclusion in a funding agreement: Inspection and enforcement of Indian oil and gas operations, determining trust land locations; approving Applications for Permits to Drill; securing and enforcing bonds (for surface of spill estate), and providing mineral assessments and valuation.

2. Cadastral Survey. Tribal and allottee cadastral survey services are already available for contracts under Title I of the Act and, therefore, may be available for inclusion in a funding agreement.

Other Activities

1. Cultural heritage. Cultural heritage activities, such as research and inventory, may be available in specific States.

2. Natural Resources Management. Activities such as silvicultural treatments, timber management, cultural resource management, watershed restoration, environmental studies, tree

planting, thinning, and similar work, may be available in specific States.

3. Range Management. Activities, such as revegetation, noxious weed control, fencing, construction and management of range improvements, grazing management experiments, range monitoring, and similar activities, may be available in specific States.

4. Riparian Management. Activities, such as facilities construction, erosion control, rehabilitation, and other similar activities, may be available in specific States.

5. Recreation Management. Activities, such as facilities construction and maintenance, interpretive design and construction, and similar activities may be available in specific States.

6. Wildlife and Fisheries Habitat Management. Activities, such as construction and maintenance, implementation of statutory, regulatory and policy or administrative plan-based species protection, interpretive design and construction, and similar activities may be available in specific States.

7. Wild Horse Management. Activities, such as wild horse round-ups, adoption and disposition, including operation and maintenance of wild horse facilities, may be available in specific States.

For questions regarding self-governance, contact Byron Loosle, Bureau of Land Management (WO–240), Bureau of Land Management, 1849 C Street NW, Washington, DC 20240, telephone (202) 912–7240, fax (202) 452–7701.

B. Eligible Bureau of Reclamation (Reclamation) Programs

The mission of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To this end, most of Reclamation's activities involve the construction, operation and maintenance, and management of water resources projects and associated facilities, as well as research and development related to its responsibilities. Reclamation water resources projects provide water for agricultural, municipal and industrial water supplies; hydroelectric power generation; flood control, enhancement of fish and wildlife habitats; and outdoor recreation.

Components of the following water resource projects listed below may be eligible for inclusion in a self-governance annual funding agreement. This list was developed with consideration of the proximity of identified self-governance Tribes to Reclamation projects.

1. Klamath Project, California and Oregon
2. Trinity River Fishery, California
3. Central Arizona Project, Arizona
4. Indian Water Rights Settlement Projects, as authorized by Congress

Upon the request of a self-governance Tribe, Reclamation will also consider for inclusion in funding agreements other programs or activities which Reclamation determines to be eligible under Section 403(b)(2) or 403(c) of the Act.

For questions regarding self-governance, contact Mr. Kelly Titensor, Native American Affairs Advisor, Native American and International Affairs Office, Bureau of Reclamation (96–43000) (MS 7069–MIB); 1849 C Street NW, Washington, DC 20240, telephone: (202) 513–0558, fax: (202) 513–0311.

C. Eligible Office of Natural Resources Revenue (ONRR) Programs

The Office of Natural Resources Revenue (ONRR) collects, accounts for, and distributes mineral revenues from both Federal and Indian mineral leases.

The ONRR also evaluates industry compliance with laws, regulations, and lease terms, and offers mineral-owning Tribes opportunities to become involved in its programs that address the intent of Tribal self-governance. These programs are available to self-governance Tribes and are a good preparation for assuming other technical functions. Generally, ONRR program functions are available to Tribes because of the Federal Oil and Gas Royalty Management Act of 1983 (FOGRMA) at 30 U.S.C. 1701 *et seq.* The ONRR promotes Tribal self-governance and self-determination over trust lands and resources through the following program functions that may be available to self-governance Tribes:

1. Audit of Tribal Royalty Payments. Audit activities for Tribal leases, except for the issuance of orders, final valuation decisions, and other enforcement activities. (For Tribes already participating in ONRR cooperative audits, this program is offered as an option.)

2. Verification of Tribal Royalty Payments. Financial compliance verification, monitoring activities, and production verification.

3. Tribal Royalty Reporting, Accounting, and Data Management.

Establishment and management of royalty reporting and accounting systems including document processing, production reporting, reference data (lease, payor, agreement) management, billing and general ledger.

4. Tribal Royalty Valuation. Preliminary analysis and recommendations for valuation, and allowance determinations and approvals.

5. Royalty Internship Program. An orientation and training program for auditors and accountants from mineral-producing Tribes to acquaint Tribal staff with royalty laws, procedures, and techniques. This program is recommended for Tribes that are considering a self-governance funding agreement, but have not yet acquired mineral revenue expertise via a 30 U.S.C. 1732 cooperative agreement (FOGRMA Pub. L. 97–451, Section 202), as this term is defined in FOGRMA and implementing regulations at 30 CFR 228.4.

For questions regarding self-governance, contact Heidi Badaracco, Program Manager, Indian Trust, Outreach & Coordination for the Office of Natural Resources Revenue, P.O. Box 25165, Building 85, Denver, Colorado 80225–0165, telephone: (303) 231–3434.

D. Eligible National Park Service (NPS) Programs

NPS administers the National Park System, which is made up of national parks, monuments, historic sites, battlefields, seashores, lake shores and recreation areas. NPS maintains the park units, protects the natural and cultural resources, and conducts a range of visitor services such as law enforcement, park maintenance, and interpretation of geology, history, and natural and cultural resources.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This list below was developed considering the proximity of an identified self-governance Tribe to a national park, monument, preserve, or recreation area and the types of programs that have components that may be suitable for administering through a self-governance funding agreement. This list is not all-inclusive, but is representative of the types of programs which may be eligible for Tribal participation through funding agreements.

Elements of Programs That May Be Eligible for Inclusion in a Self-Governance Funding Agreement

1. Archaeological Surveys
2. Comprehensive Management Planning
3. Cultural Resource Management Projects
4. Ethnographic Studies
5. Erosion Control
6. Fire Protection
7. Gathering Baseline Subsistence Data—Alaska

8. Hazardous Fuel Reduction
9. Housing Construction and Rehabilitation
10. Interpretation
11. Janitorial Services
12. Maintenance
13. Natural Resource Management Projects
14. Operation of Campgrounds
15. Range Assessment—Alaska
16. Reindeer Grazing—Alaska
17. Road Repair
18. Solid Waste Collection and Disposal
19. Trail Rehabilitation
20. Watershed Restoration and Maintenance
21. Beringia Research
22. Elwha River Restoration
23. Recycling Programs

Locations of National Park Service Units With Close Proximity to Self-Governance Tribes

1. Aniakchack National Monument & Preserve—Alaska
2. Bering Land Bridge National Preserve—Alaska
3. Cape Krusenstern National Monument—Alaska
4. Denali National Park & Preserve—Alaska
5. Gates of the Arctic National Park & Preserve—Alaska
6. Glacier Bay National Park and Preserve—Alaska
7. Katmai National Park and Preserve—Alaska
8. Kenai Fjords National Park—Alaska
9. Klondike Gold Rush National Historical Park—Alaska
10. Kobuk Valley National Park—Alaska
11. Lake Clark National Park and Preserve—Alaska
12. Noatak National Preserve—Alaska
13. Sitka National Historical Park—Alaska
14. Wrangell-St. Elias National Park and Preserve—Alaska
15. Yukon-Charley Rivers National Preserve—Alaska
16. Casa Grande Ruins National Monument—Arizona
17. Hohokam Pima National Monument—Arizona
18. Montezuma Castle National Monument—Arizona
19. Organ Pipe Cactus National Monument—Arizona
20. Saguaro National Park—Arizona
21. Tonto National Monument—Arizona
22. Tumacacori National Historical Park—Arizona
23. Tuzigoot National Monument—Arizona
24. Arkansas Post National Memorial—Arkansas
25. Death Valley National Park—California
26. Devils Postpile National Monument—California
27. Joshua Tree National Park—California
28. Lassen Volcanic National Park—California
29. Point Reyes National Seashore—California
30. Redwood National Park—California
31. Whiskeytown National Recreation Area—California
32. Yosemite National Park—California
33. Hagerman Fossil Beds National Monument—Idaho
34. Effigy Mounds National Monument—Iowa
35. Fort Scott National Historic Site—Kansas
36. Tallgrass Prairie National Preserve—Kansas
37. Boston Harbor Islands National Recreation Area—Massachusetts
38. Cape Cod National Seashore—Massachusetts
39. New Bedford Whaling National Historical Park—Massachusetts
40. Isle Royale National Park—Michigan
41. Sleeping Bear Dunes National Lakeshore—Michigan
42. Grand Portage National Monument—Minnesota
43. Voyageurs National Park—Minnesota
44. Bear Paw Battlefield, Nez Perce National Historical Park—Montana
45. Glacier National Park—Montana
46. Great Basin National Park—Nevada
47. Aztec Ruins National Monument—New Mexico
48. Bandelier National Monument—New Mexico
49. Carlsbad Caverns National Park—New Mexico
50. Chaco Culture National Historic Park—New Mexico
51. Pecos National Historic Park—New Mexico
52. White Sands National Monument—New Mexico
53. Fort Stanwix National Monument—New York
54. Great Smoky Mountains National Park—North Carolina/Tennessee
55. Cuyahoga Valley National Park—Ohio
56. Hopewell Culture National Historical Park—Ohio
57. Chickasaw National Recreation Area—Oklahoma
58. Crater Lake National Park—Oregon
59. John Day Fossil Beds National Monument—Oregon
60. Alibates Flint Quarries National Monument—Texas
61. Guadalupe Mountains National Park—Texas
62. Lake Meredith National Recreation Area—Texas
63. Ebey's Landing National Recreation Area—Washington
64. Fort Vancouver National Historic Site—Washington
65. Mount Rainier National Park—Washington
66. Olympic National Park—Washington
67. San Juan Islands National Historic Park—Washington
68. Whitman Mission National Historic Site—Washington

For questions regarding self-governance, contact Dorothy FireCloud, Manager, American Indian Liaison Office, National Park Service, 1849 C Street NW, Room 7351, Washington, DC 20240, telephone: (202) 354–2090, or email: *Dorothy_FireCloud@nps.gov.*

E. Eligible Fish and Wildlife Service (Service) Programs

The mission of the Service is to conserve, protect, and enhance fish, wildlife, and their habitats for the continuing benefit of the American people. Primary responsibilities are for migratory birds, endangered species, freshwater and anadromous fisheries, and certain marine mammals. The Service also has a continuing cooperative relationship with a number of Indian Tribes throughout the National Wildlife Refuge System and the Service's fish hatcheries. Any self-governance Tribe may contact a National Wildlife Refuge or National Fish Hatchery directly concerning participation in Service programs under the Tribal Self-Governance Act. This list is not all-inclusive, but is representative of the types of Service programs that may be eligible for Tribal participation through an annual funding agreement.

1. Subsistence Programs within the State of Alaska. Evaluate and analyze data for annual subsistence regulatory cycles and other data trends related to subsistence harvest needs and facilitate Tribal Consultation to ensure ANILCA Title VII terms are being met, as well as activities fulfilling the terms of Title VIII of ANILCA.

2. Technical Assistance, Restoration and Conservation. Conduct planning and implementation of population surveys, habitat surveys, restoration of sport fish, capture of depredating migratory birds, and habitat restoration activities.

3. Endangered Species Programs. Conduct activities associated with the conservation and recovery of threatened or endangered species protected under the Endangered Species Act (ESA) or candidate species under the ESA. These activities may include, but are not limited to, cooperative conservation programs, development of recovery plans and implementation of recovery actions for threatened and endangered species, and implementation of status

surveys for high priority candidate species.

4. Education Programs. Provide services in interpretation, outdoor classroom instruction, visitor center operations, and volunteer coordination both on and off national Wildlife Refuge lands in a variety of communities, and assist with environmental education and outreach efforts in local villages.

5. Environmental Contaminants Program. Conduct activities associated with identifying and removing toxic chemicals, to help prevent harm to fish, wildlife and their habitats. The activities required for environmental contaminant management may include, but are not limited to, analysis of pollution data, removal of underground storage tanks, specific cleanup activities, and field data gathering efforts.

6. Wetland and Habitat Conservation Restoration. Provide services for construction, planning, and habitat monitoring and activities associated with conservation and restoration of wetland habitat.

7. Fish Hatchery Operations. Conduct activities to recover aquatic species listed under the Endangered Species Act, restore native aquatic populations, and provide fish to benefit National Wildlife Refuges and Tribes. Such activities may include, but are not limited to: Tagging, rearing and feeding of fish, disease treatment, and clerical or facility maintenance at a fish hatchery.

8. National Wildlife Refuge Operations and Maintenance. Conduct activities to assist the National Wildlife Refuge System, a national network of lands and waters for conservation, management and restoration of fish, wildlife and plant resources and their habitats within the United States. Activities that may be eligible for a self-governance funding agreement may include, but are not limited to: Construction, farming, concessions, maintenance, biological program efforts, habitat management, fire management, and implementation of comprehensive conservation planning.

Locations of Refuges and Hatcheries With Close Proximity to Self-Governance Tribes

The Service developed the list below based on the proximity of identified self-governance Tribes to Service facilities that have components that may be suitable for administering through a self-governance funding agreement.

1. Alaska National Wildlife Refuges—Alaska
2. Alchesay National Fish Hatchery—Arizona
3. Humboldt Bay National Wildlife Refuge—California
4. Kootenai National Wildlife Refuge—Idaho
5. Agassiz National Wildlife Refuge—Minnesota
6. Mille Lacs National Wildlife Refuge—Minnesota
7. Rice Lake National Wildlife Refuge—Minnesota
8. National Bison Range—Montana
9. Ninepipe National Wildlife Refuge—Montana
10. Pablo National Wildlife Refuge—Montana
11. Sequoyah National Wildlife Refuge—Oklahoma
12. Tishomingo National Wildlife Refute—Oklahoma
13. Bandon Marsh National Wildlife Refuge—Washington
14. Dungeness National Wildlife Refuge—Washington
15. Makah National Fish Hatchery—Washington
16. Nisqually National Wildlife Refuge—Washington
17. Quinault National Fish Hatchery—Washington
18. San Juan Islands National Wildlife Refuge—Washington
19. Tamarac National Wildlife Refuge—Wisconsin

For questions regarding self-governance, contact Scott Aikin, Fish and Wildlife Service, National Native American Programs Coordinator, 1211 SE Cardinal Court, Suite 100, Vancouver, Washington 98683, telephone (360) 604–2531 or fax (360) 604–2505.

F. Eligible U.S. Geological Survey (USGS) Programs

The mission of the USGS is to collect, analyze, and provide information on biology, geology, hydrology, and geography that contributes to the wise management of the Nation's natural resources and to the health, safety, and well-being of the American people. This information is usually publicly available and includes maps, data bases, and descriptions and analyses of the water, plants, animals, energy, and mineral resources, land surface, underlying geologic structure, and dynamic processes of the earth. The USGS does not manage lands or resources. Self-governance Tribes may potentially assist the USGS in the data acquisition and analysis components of its activities.

For questions regarding self-governance, contact Chris Hammond, Head, Office of Tribal Relations and Manager, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, Virginia 20192, telephone 703–648–6621.

G. Eligible Office of the Special Trustee for American Indians (OST) Programs

The Department has responsibility for what may be the largest land trust in the world, approximately 56 million acres. At the beginning of fiscal year 2021, the Bureau of Trust Funds Administration (BTFA) assumed the fiduciary functions previously managed by OST. Established by the American Indian Trust Fund Management Reform Act of 1994, OST worked to improve accountability and management of Indian assets through oversight, reform, and coordination of Federal Policy. OST oversees the management of Indian trust assets, including income generated from leasing and other commercial activities on Indian trust lands, by maintaining, investing and disbursing Indian trust financial assets, and reporting on these transactions. The mission of the OST is to serve Indian communities by fulfilling Indian fiduciary trust responsibilities. This is to be accomplished through the implementation of a Comprehensive Trust Management Plan (CTM) that is designed to improve trust beneficiary services, ownership information, management of trust fund assets, and self-governance activities.

A Tribe operating under self-governance may include the following programs, services, functions, and activities or portions thereof in a funding agreement:

1. Beneficiary Processes Program (Individual Indian Money Accounting Technical Functions)

The MOU between the Tribe/Consortium and OST outlines the roles and responsibilities for the performance of the OST program by the Tribe/Consortium. If those roles and responsibilities are already fully specified in the existing funding agreement with the OSG, an MOU is not necessary. To the extent that the parties desire specific program standards, an MOU will be negotiated between the Tribe/Consortium and OST, which will be binding on both parties and attached and incorporated into the OSG funding agreement.

If a Tribe/Consortium decides to assume the operation of an OST program, the new funding for performing that program will come from OST program dollars. A Tribe's newly-assumed operation of the OST program(s) will be reflected in the Tribe's OSG funding agreement.

For questions regarding self-governance, contact Lee Frazier, Program Analyst, Office of External Affairs, Office of the Special Trustee for

American Indians (MS 5140–MIB), 1849 C Street NW, Washington, DC 20240–0001, phone: (202) 208–7587, fax: (202) 208–7545.

H. Eligible Appraisal and Valuation Services Office Programs

The Appraisal and Valuation Services Office (AVSO), established on March 19, 2018 by Secretarial Order No. 3363, provides appraisal, valuation, mineral evaluation, and real property consulting expertise to Indian beneficiaries, federal clients and other stakeholders in accordance with the highest professional and ethical standards. AVSO is responsible for all real property appraisal and valuation services within the Department of the Interior as well as conducting mineral economic evaluations to the following bureau clients: Bureau of Indian Affairs, Bureau of Indian Education, Bureau of Land Management, Bureau of Reclamation, Office of the Special Trustee for American Indians (now known as the Bureau of Trust Funds Administration), US Fish and Wildlife Service, and the National Park Service. Within AVSO are four land valuation divisions; Indian Trust Property Valuation Division, Land Buy-Back Program Valuation Division, Division of Minerals Evaluation and Federal Land Division.

The MOU between the Tribe/Consortium and AVSO outlines the roles and responsibilities for the performance of the AVSO program by the Tribe/Consortium. An MOU will be negotiated between the Tribe/Consortium and AVSO, which will be binding on both parties and attached and incorporated into the OSG funding agreement.

If a Tribe/Consortium decides to assume the operation of an AVSO program, the new funding for performing that program will come from AVSO program dollars. A Tribe's newly-assumed operation of an AVSO program will be reflected in the Tribe's OSG funding agreement.

For questions regarding the assumption of an AVSO program under self-governance, contact Eldred F. Lesansee, Associate Deputy Director, Appraisal and Valuation Services Office, 4400 Masthead Street NE, Albuquerque, NM 87109, (505) 816—1318, fax (505) 816–3129.

IV. Programmatic Targets

The programmatic target for Fiscal Year 2022 provides that, upon request of a self-governance Tribe, each non-BIA bureau will negotiate funding agreements for its eligible programs beyond those already negotiated.

Dated: January 31, 2022.

Deb Haaland,

Secretary.

[FR Doc. 2022–02584 Filed 2–7–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–SSB–NPS0033118; PPWONRANDE2, PMP00E105.YP0000; OMB Control Number 1024–0224]

Agency Information Collection Activities; Programmatic Clearance for NPS-Sponsored Public Surveys

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before April 11, 2022.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *http://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 12201 Sunrise Valley Drive, (MS–242) Reston, VA 20191 (mail); or *phadrea_ponds@nps.gov* (email). Please include ''1024–0224'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR by mail, contact Bret Meldrum, Chief, Social Science Program National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525; or by email at *bret_meldrum@nps.gov.* Please reference OMB Control Number 1024–0224 in the subject line of your comments. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The NPS is authorized by the National Park Service Protection, Interpretation, and Research in System (54 U.S.C. 100701) statutes to collect information used to enhance the management and planning of parks and their resources. The NPS Social Science Program (SSP) relies heavily on this generic approval to submit survey requests to OMB in an expedited manner. This process significantly streamlines the information collection process a manner that allows the NPS to submit at least 25 requests per year,

which is 5 times as many requests that can be processed annually using the regular submission route.

The Programmatic Clearance applies to all NPS social science collections (*e.g.,* questionnaires, focus groups, interviews, etc.) designed to furnish usable information to NPS managers and planners concerning visitor experiences, perceptions of services, programs, and planning efforts in areas managed by the NPS. To qualify for the NPS generic programmatic review process each information request must show clear ties to NPS management and planning needs in areas managed by the NPS or involve research that will directly benefit the NPS. The scope of the programmatic review process is limited to issues that are non-controversial or unlikely to attract significant public interest.

All collections must be reviewed by the NPS and approved by OMB before a collection is administered. At least 80% of the questions in an individual collection must be taken from the OMB approved Pool of Known Questions (PKQ). We acknowledge that the PKQ is not a comprehensive collection of all possible survey questions; therefore, we allow leeway for requestors to add park or research specific questions not in the PKQ. However, all questions must fit within the scope of the approved Topic Areas. The Social Science Program will continue to conduct necessary quality control and will submit each information collection request to OMB for expedited review before the collection is administered.

No changes to this information collection are anticipated at this time. However, the Program is submitting this as a ''early renewal'' and is designated as a ''revision'' in the FRN. The Post-Covid increase in the of number surveys received in 2021 exhausted the burden hours required for 2022. For this reason, the Program is requesting this ''early renewal'' (*i.e.,* revision) to increase respondent burden hours needed to complete survey requests scheduled for Spring/Summer 2022.

Title of Collection: Programmatic Clearance for NPS-Sponsored Public Surveys.

OMB Control Number: 1024–0224.

Form Number: Form 10–201.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals/Households.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Activity	Annual number of responses	Estimated completion time per response (minutes)	Total annual burden (hours)
On-site Surveys	30,000	15	7,500
Mail-back surveys	10,000	20	3,333
On-line surveys	10,000	20	3,333
All non-response surveys	10,000	3	500
Telephone Surveys	5,000	30	2,500
Focus Groups/In person interviews/Video conferences	2,500	60	2,500
Total	67,500	.....	19,666

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2022–02615 Filed 2–7–22; 8:45 am]

BILLING CODE 4312–52–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 Wet Dry Surface Cleaning Devices, DN 3601;* 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 Bissell Inc. and Bissell Homecare, Inc. on February 2, 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 wet dry surface cleaning devices. The complainant names as respondents: Tineco Intelligent Technology Co., Ltd. of China; TEK (Hong Kong) Science & Technology Ltd. of Hong Kong; and Tineco Intelligent, Inc. of Seattle, WA. The complainant requests that the Commission issue an exclusion order, cease and desist orders, 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. 3601'') 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 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: February 2, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–02587 Filed 2–7–22; 8:45 am]

BILLING CODE 7020–02–P

[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.*

DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period

On December 29, 2021, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of South Carolina, in the lawsuit entitled *United States* v. *New-Indy Catawba LLC,* Civil Action No. 0:21–cv–02053–SAL.

The United States filed this lawsuit under the Clean Air Act. The United States' complaint seeks injunctive relief related to emissions of Hydrogen Sulfide from defendant's paper mill in Catawba, South Carolina. The consent decree requires the defendant to perform injunctive relief to abate hydrogen sulfide emissions, and to pay a $1.1 million civil penalty.

On January 10, 2022, the Department of Justice published notice of the proposed Consent Decree. 87 FR 1,186. The notice started a 30-day period for the submission of comments on the proposed consent decree. The Department of Justice has received requests for an extension of the comment period. In consideration of the requests, notice is hereby given that the Department of Justice has extended the comment period on the proposed consent decree by an additional 30 days, up to and including March 11, 2022.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *New-Indy Catawba LLC,* D.J. Ref. No. 90–5–2–1–12471. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined at and downloaded from this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.75 (25 cents per page

reproduction cost) payable to the United States Treasury.

Lori Jonas,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–02567 Filed 2–7–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Requirements Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 10, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Occupational Requirements Survey (ORS) is a nationwide survey that the Bureau of Labor Statistics (BLS) is conducting at the request of the Social Security Administration (SSA). Estimates produced from the data collected by the ORS will be used by the SSA to update occupational requirements data for administering the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs. BLS is seeking approval to increase the ORS sample size for Fiscal Years 2022 and 2023 to mitigate the impacts of pandemic related non-response on survey estimates. To ensure sufficient data are collected to support final ORS estimates, BLS is now seeking approval to increase the ORS sample size for the group collected August 2022 through July 2023. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 28, 2021 (86 FR 7422).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0189. The current approval is scheduled to expire on August 31, 2024.

Agency: DOL–BLS.

Title of Collection: Occupational Requirements Survey.

OMB Control Number: 1220–0189.

Affected Public: State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 10,896.

Total Estimated Number of Responses: 10,896.

Total Estimated Annual Time Burden: 14,105 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 2, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–02563 Filed 2–7–22; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Committee on National Science and Engineering Policy hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business as follows:

TIME AND DATE: Friday, February 11, 2022, from 2:30–3:30 p.m. EST.

PLACE: This meeting will be held by teleconference through the National Science Foundation.

STATUS: Open.

MATTERS TO BE CONSIDERED: The agenda of the teleconference is: Chair's opening remarks; update on Science & Engineering Indicators 2022 reports; discussion of the release and rollout of The State of U.S. Science & Engineering 2022; discussion of socioeconomic barriers to participation in STEM and the Committee's plans to explore this issue.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703/292–7000. Meeting information, including a link to watch this meeting on YouTube may be found at the National Science Board website *www.nsf.gov/nsb.*

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2022–02775 Filed 2–4–22; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0036]

Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1385, ''Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident.'' This DG is proposed Revision 5 to Regulatory Guide (RG) 1.82, which describes an approach that may be used to determine quality standards acceptable to the NRC staff, to meet the regulatory requirements for sumps and suppression pools that provide water sources for emergency core cooling,

containment heat removal, or containment atmosphere cleanup systems. It also provides guidelines for evaluating the adequacy and the availability of the sump or suppression pool for long-term recirculation cooling following a loss-of-coolant-accident, and the use of containment accident pressure in determining the net positive suction head for the emergency core cooling and containment heat removal pumps. This proposed revision guidance applies to both the pressurized-water reactor (PWR) and boiling-water reactor (BWR) types of light-water reactors.

DATES: Submit comments by March 10, 2022. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0036. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann, telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ahsan Sallman, Office of Nuclear Reactor Regulation, telephone: 301–415–2380 email: *Ahsan.Sallman@nrc.gov* or James Steckel, Office of Nuclear Regulatory Research, telephone: 301–415–1026 email: *James.Steckel@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0036 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this action, by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0036.
- *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, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0036 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *https://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, titled ''Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident,'' is temporarily identified by its task number, DG–1385 (ADAMS Accession No. ML21266A185). DG–1385 is proposed Revision 5 to RG 1.82, ''Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident'' (ADAMS Package Accession No. ML21081A042). The proposed revision guidance, applicable to both the PWR and BWR types of light-water reactors, may be used to determine acceptable methods to meet the regulatory requirements for sumps and suppression pools that provide water sources for emergency core cooling, containment heat removal, or containment atmosphere cleanup systems for satisfying General Design Criterion 1, ''Quality Standards and Records,'' as set forth in Appendix I, ''Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion 'As Low as Is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents,'' of part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.''

Changes are being made to provide guidance on the use of containment accident pressure in determining the net positive suction head margin for the emergency core cooling system and containment heat removal pumps. The proposed revision also incorporates new information regarding the effects of debris on long-term core cooling (LTCC) since Revision 4, (03/2012) of RG 1.82 was issued.

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML21266A186). The staff develops a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG–1385, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests''; constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52.

Dated: February 2, 2022.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2022–02562 Filed 2–7–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0018]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of one amendment request. The amendment request is for Catawba Nuclear Station, Units 1 and 2 and McGuire Nuclear Station, Units 1 and 2. For the amendment request, the NRC proposes to determine that it involves no significant hazards consideration (NSHC). Because the amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by March 10, 2022. A request for a hearing or petitions for leave to intervene must be filed by April 11, 2022. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by February 18, 2022.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- Federal Rulemaking Website: Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0018. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the ''For Further Information Contact'' section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Susan Lent, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1365, email: *Susan.Lent@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0018, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0018.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0018, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes a notice of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment request involves NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for the amendment request is shown as follows.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendments before expiration of the 60-day period provided that its final determination is that the amendments involve no significant hazards consideration. In addition, the Commission may issue the amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendments. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendments unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the

presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as discussed below, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov*, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC; Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, NC

Docket No(s)	50–369, 50–370, 50–413, 50–414.
Application Date	October 25, 2021.
ADAMS Accession No	ML21298A133.
Location in Application of NSHC	Pages 4–6 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendments would revise the conditional exemption of the end-of-cycle moderator temperature coefficient measurement methodology required by technical specification surveillance requirement 3.1.3.2.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tracey Mitchell LeRoy, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, Mail Code DEC45A, Charlotte, NC 28202.
NRC Project Manager, Telephone Number	Zackary Stone, 301–415–0615.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, NC

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Enforcement and Hearings, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

It is so ordered.

Dated: January 12, 2022.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2022–00793 Filed 2–7–22; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34495; 811–22156]

Millennium Investment & Acquisition Co Inc.

February 2, 2022.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for deregistration under Section 8(f) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Millennium Investment & Acquisition Co Inc. requests an order declaring that it has ceased to be an investment company.

APPLICANT: Millennium Investment & Acquisition Co Inc.

FILING DATES: The application was filed on March 1, 2021 and was amended on May 11, 2021, December 9, 2021 and January 21, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the request 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 Applicant with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on February 28, 2022 and should be accompanied by proof of service on Applicant, 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 to the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: *david@dlesser.com*.

FOR FURTHER INFORMATION CONTACT: Asen Parachkevov, Senior Counsel; 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 for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicant's Representations

1. Applicant is a Delaware corporation and is an internally managed, non-diversified, closed-end management investment company registered under the Act. Applicant states that it is in the business of owning and operating businesses that produce activated carbon and sustainably cultivate cannabis in greenhouses and that it is no longer engaged or proposing to engage, or holding itself out as being, in the business of investing, reinvesting, owning, holding, or trading in securities.

2. On August 14, 2020, Applicant announced that its Board of Directors (the ''Board'') unanimously approved a proposal to deregister as a registered investment company with the Commission (the ''Deregistration Proposal'') in its filing of a preliminary proxy statement with the Commission (the ''Proxy Statement''). On or about September 3, 2020, Applicant mailed to shareholders the Proxy Statement soliciting shareholder approval of the Deregistration Proposal. The Proxy Statement also stated that, after deregistering as an investment company, Applicant would no longer be subject to regulation under the Act. In addition, the Proxy Statement explained that Applicant would continue to be managed by Applicant's sole current officer and overseen by the Board, which would maintain substantially similar power, authority and discretion as the Board had before deregistration and be subject to the same duties under state law. Applicant held a meeting of shareholders (the ''Shareholder Meeting'') on October 14, 2020, at which the Deregistration Proposal was approved.

3. Applicant states that as of September 30, 2021, Applicant's unconsolidated assets were comprised solely of (i) ''cash items'' (as that term has been interpreted for purposes of Section 3(a)(1)(C) of the Act) and (ii) interests in consolidated subsidiaries. Applicant further states that it owns greater than 50% of the voting securities of each of the consolidated subsidiaries (other than a newly formed cannabis operator, Walsenburg Cannabis LLC (''WC''), where it will own greater than 50% of WC's outstanding voting securities once it receives approval for holding cannabis licenses in Colorado) and controls (within the meaning of Section 2(a)(9) of the Act) each of the consolidated subsidiaries. Applicant represents that no consolidated subsidiary is an ''investment company'' within the meaning of Section 3(a) of the Act, and that no consolidated subsidiary is relying on the exception from the definition of ''investment company'' in Sections 3(c)(1) or 3(c)(7) of the Act.

4. Applicant states that as of September 30, 2021, the value of securities issued by the consolidated subsidiaries and owned by Applicant was 100% of the value of Applicant's total assets, exclusive of ''Government securities'' (as defined in the Act) and ''cash items'' (as that term has been interpreted for purposes of Section 3(a)(1)(C) of the Act), on an unconsolidated basis (''Adjusted Total Assets''). As of September 30, 2021, the assets of the consolidated subsidiaries were collectively comprised of (i) ''cash items'' (as that term has been interpreted for purposes of Section 3(a)(1)(C) of the Act), (ii) security deposits and other assets, (iii) property, plant and equipment, (iv) inventory and (v) right-of use (lease) assets. Applicant represents that no consolidated subsidiary owns any ''investment securities'' (as defined in Section 3(a)(2) of the Act), and that no consolidated subsidiary is therefore an investment company within the meaning of Section 3(a)(1)(C) of the Act. Applicant states that the consolidated subsidiaries are operating companies primarily engaged in the production of activated carbon or the cultivation of cannabis. Applicant states that it may establish other controlled subsidiaries to carry out specific activities, as noted below, consistent with Applicant's business of owning and operating businesses focused on activated carbon, cannabis cultivation and other private businesses it may acquire.

5. Applicant represents that it is anticipated that deregistration will have no unfavorable tax consequences to Applicant or its shareholders. Applicant states that it is currently taxed at the entity level as a ''C-corporation'' by Federal and State tax authorities, and anticipates that it will continue to be taxed as a C-corporation after deregistration.

6. Applicant states that its periodic reports to shareholders, investor presentations, press releases and website all indicate that Applicant is implementing the Deregistration Proposal in accordance with the disclosure in the Proxy Statement, and describe Applicant's activated carbon and cannabis cultivation businesses. As a result of these efforts, Applicant states that it is and holds itself out as a holding company in the business of owning and operating businesses that produce activated carbon and sustainably cultivate cannabis in greenhouses.

7. In addition, Applicant represents that on October 1, 2021 it filed a name change application with FINRA seeking to change its name to Millennium Sustainable Ventures Corp. Applicant states that there can be no assurance as to when, or if, FINRA will approve the name change, and represents that it will not raise new capital until it has completed its name change.

8. Applicant states that its current business activities will not materially change upon receipt of the requested Order and completion of the deregistration process. Applicant states that it currently operates in the activated carbon and cannabis cultivation industries, and the activities of Applicant and Applicant's directors and officers reflect these operations and indicate that Applicant no longer operates as an investment company, but rather is currently focused on owning and operating businesses that produce activated carbon and sustainably cultivate cannabis in greenhouses. Applicant states that it is currently internally managed with David H. Lesser serving as Chairman of the Board, CEO, Secretary and Treasurer. Applicant states that Mr. Lesser is responsible for managing the business affairs and day-to-day activities of Applicant. Applicant states that since Mr. Lesser became Applicant's sole officer and a director on October 3, 2013, he been working to shift Applicant's business to that of an operating company focused on operating businesses. As part of this shift, Mr. Lesser has led the acquisition and development of Applicant's activated carbon and cannabis cultivation businesses, together with the divestment of Applicant's ''investment securities'' (as defined in Section 3(a)(2) of the Act).

9. Applicant states that it fully liquidated its sole investment security position on June 1, 2021. Applicant states that it presently operates businesses in the activated carbon and cannabis cultivation industries and is seeking to generate income from the existing and future operations of these businesses. Applicant further represents that it presently is not generating revenue and is in a net loss position and that substantially all of Applicant's net loss for the three and nine months ended September 30, 2021 was attributable to operating expenses. Applicant represents that it derives no material portion of its net income after taxes from investment securities, and Applicant represents that no subsidiary of Applicant expects to derive a material portion of its net income after taxes from investment securities. Applicant

represents that upon deregistering as an investment company, Applicant and its consolidated subsidiaries will not derive a material portion of their gross income from investment security assets.

10. Upon the issuance of the requested Order, Applicant represents that it will issue a press release to shareholders indicating that it is no longer a registered investment company and will cease indicating in its financial statements that it is a registered investment company.

11. Applicant states that it is not currently a party to any administrative proceeding or material litigation.

Applicant's Legal Analysis

1. Section 8(f) of the Act provides that whenever the Commission, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the Commission shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

2. Section 3(a)(1)(A) of the Act defines an ''investment company'' as any issuer which ''is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities.'' Section 3(a)(1)(B) of the Act defines an ''investment company'' as any issuer which ''is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding.''

3. Section 3(a)(1)(C) of the Act defines an ''investment company'' as any issuer which ''is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.'' Section 3(a)(2) of the Act defines ''investment securities'' as ''all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exception from the definition of investment company in paragraph (1) or (7) of subsection (c).''

4. Applicant states that it is no longer an investment company as defined in section 3(a)(1)(A), 3(a)(1)(B) or section 3(a)(1)(C). With regard to section 3(a)(1)(A), Applicant represents that it is currently focused primarily on owning and operating businesses that produce activated carbon or cultivate cannabis, and argues that its historical development, its public representations, the activities of its directors and officers, and the nature of its present assets support this assertion.

5. With regard to section 3(a)(1)(B), Applicant represents that it is not engaged, and does not propose to engage, in the business of issuing face-amount certificates of the installment type, has not been engaged in such business and does not have any such certificate outstanding.

6. With regard to section 3(a)(1)(C), Applicant represents that it owns more than 50% of the voting securities of each of its consolidated subsidiaries (other than WC until Applicant receives approval for Colorado regulators to hold cannabis licenses at which point it will own more than 50% of the voting securities of WC) and will own at least 50% of the voting securities of other non-investment company subsidiaries it may form or acquire to ensure the value of investment securities owned by Applicant is less than 40% of the value of Applicant's Adjusted Total Assets.[1]

7. Applicant states that none of its consolidated subsidiaries is an ''investment company'' within the meaning of Section 3(a) of the Act, and no consolidated subsidiary is relying on the exception from the definition of investment company for private funds set forth in Section 3(c)(1) or 3(c)(7) of the Act.

8. Applicant states that it is thus qualified for an order of the Commission pursuant to section 8(f) of the Act.

[1] Applicant represents that it possess an economic interest in WC, through a convertible loan arrangement, that results in Applicant having the right to substantially all of the rewards and bearing substantially all of the risks of ownership of WC through this convertible loan arrangement. Applicant states that WC has no steady income, that Applicant funds virtually all of WC's expenses through the convertible loan arrangement, and that WC's sole managing member is the president of Millennium Cannabis, LLC, a wholly-owned subsidiary of Applicant. Applicant further states that even if its interest in WC were not considered sufficient to make WC the equivalent of a majority-owned subsidiary of Applicant for purposes of the Act, Applicant would (a) consider the fair value of its loan to WC as of September 30, 2021 to be $671,000, which is the value advanced under the loan as of September 30, 2021 and (b) remove the ''right of use'' asset on its balance sheet attributable to WC of $5,325,848. Applicant states that this would result in the WC loan representing approximately 1.71% of Applicant's Adjusted Total Assets, which is less than 40% of the value of Applicant's Adjusted Total Assets. Therefore, Applicant represents that the treatment of WC is immaterial to the analysis of whether Applicant is an investment company within the meaning of Section 3(a)(1)(C) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Director.

[FR Doc. 2022–02523 Filed 2–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94135; File No. SR–MIAX–2022–06]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 531 To Provide for the New Liquidity Taker Event Report—Complex Orders

February 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2022, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 531(b) to provide for the new ''Liquidity Taker Event Report—Complex Orders''.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 currently offers the Liquidity Taker Event Report, which is a Member [3]-specific report and helps Members to better understand by how much time a particular order missed executing against a specific order resting on the Exchange's Simple Order Book.[4] The current Liquidity Taker Event Report is described under Exchange Rule 531(a).[5]

The Exchange now proposes to amend Exchange Rule 531(b) [6] to provide for the new ''Liquidity Taker Event Report—Complex Orders'' (the ''Complex Order Report'') which would be substantially similar to the existing Liquidity Taker Event Report, but would include data concerning a Member's Complex Orders.[7] The Exchange also proposes to change the name of the existing Liquidity Taker Event Report to ''Liquidity Taker Event Report—Simple Orders'' and amend Exchange Rule 531(a) accordingly (the ''Liquidity Taker Event Report—Simple Orders'' shall be referred to herein as the ''Simple Order Report'').

The Simple Order Report includes information about incoming orders seeking to remove resting orders from the Simple Order Book. The proposed Complex Order Report would include the same information about incoming Complex Orders that seek to remove Complex Orders resting on the Strategy Book.[8] Two other differences between the proposed Complex Order Report and the Simple Order Report are that the proposed Complex Order Report will include the Complex MBBO [9] in place of the MBBO and Complex ABBO [10] in place of the ABBO, as described further below. These are minor differences designed to provide the MBBO and ABBO that are relevant to trading Complex Orders. Otherwise, the content and dissemination of the proposed Complex Order Report set forth under amended Exchange Rule 531(b) will be identical to that of the Simple Order Report under Exchange Rule 531(a). Other than the difference set forth above, the Exchange represents that there are no other differences between Simple Orders and Complex Orders that would necessitate any other changes to the proposed Complex Order Report or render the effects or use of the proposed Complex Order Report as different from the Simple Order Report.

Like the Simple Order Report, the proposed Complex Order Report is an optional product [11] available to Members. Currently, the Exchange provides real-time prices and analytics in the marketplace. The Exchange believes the additional data points from the matching engine outlined below may help Members gain a better understanding about their Complex Order interactions with the Exchange. The Exchange believes the proposed Complex Order Report will provide Members with an opportunity to learn more about better opportunities to access liquidity and receive better execution rates when trading Complex Orders. The proposed Complex Order Report will increase transparency and democratize information so that all firms that subscribe to the proposed Complex Order Report have access to the same information on an equal basis, even for firms that do not have the appropriate resources to generate a similar report regarding interactions with the Exchange. Like the Simple Order Report, none of the components of the proposed Complex Order Report include real-time market data.

Members generally would use a liquidity accessing order if there is a high probability that it will execute against an order resting on the Exchange's Simple Order Book. Like the Simple Order Report, the proposed Complex Order Report would identify by how much time an order that may have been marketable missed an execution. In the case of the proposed Complex Order Report, the incoming order would be a Complex Order submitted to trade against a resting order for a Complex Strategy. The proposed Complex Order Report will provide greater visibility into the missed trading execution, which will allow Members to optimize their models and trading patterns to yield better execution results when trading Complex Orders.

Like the Simple Order Report, the proposed Complex Order Report will be a Member-specific report and will help Members to better understand by how much time a particular order, in this case a Complex Order, missed executing against a specific resting order, thus allowing that Member to determine whether it wants to invest in the necessary resources and technology to mitigate missed executions against certain resting orders on the Exchange's Strategy Book. For example, Member A submits a Complex Order that is posted to the Strategy Book and then, within 200 microseconds of the entry of Member A's Complex Order, Member B enters a marketable Complex Order to execute against Member A's resting Complex Order. Immediately thereafter, Member C also within 200 microseconds of the entry of Member A's Complex Order, sends a marketable

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] The term ''Simple Order Book'' means ''the Exchange's regular electronic book of orders and quotes.'' *See* Exchange Rule 518(a)(15).

[5] *See* Securities Exchange Act Release No. 92081 (June 1, 2021), 86 FR 30344 (June 7, 2021) (SR–MIAX–2021–21) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 531, Reports and Market Data Products, to Adopt the Liquidity Taker Event Report).

[6] Currently, Exchange Rule 531(b) is titled ''Market Data Products'' and provides the rule text for the Open-Close Report. *See* Exchange Rule 531(b). With this filing, the Exchange also proposes to move the rule text for Market Data Products to now be renumbered as Exchange Rule 531(c). The Exchange does not propose to amend any of the rule text for Market Data Products as currently stated in Exchange Rule 531.

[7] In sum, a ''Complex Order'' is ''any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the 'legs' or 'components' of the complex order), for the same account . . . .'' *See* Exchange Rule 518(a)(5).

[8] The term ''Complex Strategy'' means ''a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex order or by the Exchange for a complex strategy that is not currently in the System.'' *See* Exchange Rule 518(a)(6). The term ''Strategy Book'' means the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17). The Strategy Book is organized by Complex Strategy in that individual orders for a defined Complex Strategy are organized together in a book that is separate from the orders for a different Complex Strategy.

[9] The term ''MBBO'' means the Exchange's best bid or offer. *See* Exchange Rule 100. The Complex MBBO for a particular Complex Strategy is calculated using the Implied Complex MIAX Emerald Best Bid or Offer (''icMBBO'') combined with the best price currently available for that particular Complex Strategy on the Strategy Book to establish the Exchange's best net bid or offer for that Complex Strategy. The icMBBO is calculated using the best price from the Simple Order Book for each component of a Complex Strategy including displayed and non-displayed trading interest. For stock-option orders, the icMBBO for a Complex Strategy is calculated using the best price (whether displayed or non-displayed) on the Simple Order Book in the individual option component(s), and the NBBO in the stock component. *See* Exchange Rule 518(a)(11).

[10] The term ''ABBO'' or ''Away Best Bid or Offer'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from the Options Price Reporting Authority (''OPRA''). *See* Exchange Rule 100. The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away markets' best net bid or offer for a Complex Strategy.

[11] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the proposed Complex Order Report.

Complex Order to execute against Member A's resting Complex Order. Because Member B's Complex Order is received by the Exchange before the Complex Order for Member C, Member B's Complex Order executes against Member A's resting Complex Order. If Member C were to subscribe to the proposed Complex Order Report, it would be provided the data points necessary for that firm to calculate by how much time they missed executing against Member A's resting Complex Order.

Like the Simple Order Report, the Exchange proposes to provide the proposed Complex Order Report on a T+1 basis. As further described below, the proposed Complex Order Report will be specific and tailored to the Member that is subscribed to the Complex Order Report and any data included in the Complex Order Report that relates to a Member other than the Member receiving the Complex Order Report will be anonymized.

The Exchange proposes to provide the Complex Order Report in response to Member demand for data concerning the timeliness of their incoming Complex Orders and executions against resting orders. Members have found the existing Simple Order Report helpful and have periodically requested similar information from the Exchange regarding their Complex Orders. This has come in the form of requests by Members to the Exchange's trading operations personnel for information concerning the timeliness of their incoming Complex Orders and efficacy of their attempts to execute against resting liquidity on the Exchange's Strategy Book. The purpose of the proposed Complex Order Report is to provide Recipient Members the necessary data in a standardized format on a T+1 and equal basis.

Similar to current Exchange Rule 531(a) regarding the Simple Order Report, amended Exchange Rule 531(b) would provide that the proposed Complex Order Report is a daily report that provides a Member (''Recipient Member'') with its liquidity response time details for executions of an order resting on the Strategy Book, where that Recipient Member submitted a Complex Order that attempted to execute against such resting Complex Order within a certain timeframe.

Report Content

The content of the proposed Complex Order Report would be identical to the Simple Order Report, but for two minor differences discussed below. Paragraph (b)(1) of Rule 531 would describe the content of the proposed Complex Order Report and delineate which information would be provided regarding the resting order,[12] the response that successfully executed against the resting order, and the response submitted by the Recipient Member that missed executing against the resting order. It is important to note that the content of the proposed Complex Order Report will be specific to the Recipient Member and the proposed Complex Order Report will not include any information related to any Member other than the Recipient Member. The Exchange will restrict all other market participants, including the Recipient Member, from receiving another market participant's data.

Resting Order Information. The content of the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(1)(i) is identical to the content of the Simple Order Report under Exchange Rule 531(a)(1)(i). However, as noted above, the content of the proposed Complex Order Report would be limited to incoming Complex Orders that seek to remove liquidity from the Exchange's Strategy Book.

Amended Exchange Rule 531(b)(1)(i) would provide that the following information would be included in the proposed Complex Order Report regarding the resting order: (A) The time the resting order was received by the Exchange; [13] (B) symbol; [14] (C) order reference number, which is a unique reference number assigned to a new Complex Order at the time of receipt; [15] (D) whether the Recipient Member is an Affiliate [16] of the Member that entered the resting order [17]; (E) origin type (*e.g.,* Priority Customer,[18] Market Maker [19]); [20] (F) side (buy or sell); [21] and (G) displayed price and size of the resting order.[22]

Execution Information. Amended Exchange Rule 531(b)(1)(ii) would provide that the following information would be included in the proposed Complex Order Report regarding the execution of the resting order: (A) The Complex MBBO at the time of execution; [23] (B) the Complex ABBO at the time of execution; [24] (C) the time the first response that executes against the resting order was received by the Exchange and the size of the execution and type of the response; [25] (D) the time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the Exchange; [26] and (E) whether the

[12] Like the Simple Order Report, only displayed orders will be included in the proposed Complex Order Report. The Exchange notes that it does not currently offer any non-displayed order types on its options trading platform.

[13] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(A).

[14] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(B).

[15] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(C).

[16] The term ''affiliate'' of or person ''affiliated with'' another person means a person who, directly, or indirectly, controls, is controlled by, or is under common control with, such other person. *See* Exchange Rule 100.

[17] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(D). The Report will simply indicate whether the Recipient Member is an Affiliate of the Member that entered the resting order and not include any other information that may indicate the identity of the Member that entered the resting order.

[18] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 to Exchange Rule 100. *See* Exchange Rule 100.

[19] The term ''Market Maker'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[20] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(E).

[21] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(F).

[22] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(G). The Exchange notes that the displayed price and size are also disseminated via the Exchange's proprietary data feeds.

[23] Similar information is included in the Simple Order Report. Exchange Rule 531(b)(1)(ii)(A) would similarly provide that if the resting order executes against multiple contra-side responses, only the Complex MBBO at the time of the execution against the first response will be included.

[24] Similar information is included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(B). Exchange Rule 531(b)(1)(ii)(B) would similarly provide that if the resting order executes against multiple contra-side responses, only the Complex ABBO at the time of the execution against the first response will be included.

[25] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(C). The time the Exchange received the response order would be in nanoseconds and would be the time the response was received by the Exchange's network, which is before the time the response would be received by the System. The type of responses that would be identified in the proposed Complex Order Report are Standard Quotes and eQuotes. A ''Standard Quote'' is a quote submitted by a Market Maker that cancels and replaces the Market Maker's previous Standard Quote, if any. *See* Exchange Rule 517(a)(1). An ''eQuote'' is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. An eQuote can be cancelled by the Market Maker at any time, or can be replaced by another eQuote that contains specific instructions to cancel an existing eQuote. *See* Exchange Rule 517(a)(2).

[26] The time difference would be provided in nanoseconds. This information is also included in

Continued

response was entered by the Recipient Member.[27] If the resting order executes against multiple contra-side responses, only the Complex MBBO and Complex ABBO at the time of the execution against the first response will be included.

The content of the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(1)(ii) is identical to the content of the Simple Order Report under Exchange Rule 531(a)(1)(ii) with two minor differences. The Simple Order Report includes the MBBO, which is the Exchange's best bid or offer, and the ABBO, which is the best bid or offer of away exchanges. In their place, the proposed Complex Order Report would include the Complex MBBO and Complex ABBO. The Complex MBBO is calculated using the MBBO for each component of a Complex Strategy to establish the Exchange's best net bid or offer for a Complex Strategy. As discussed above, the Complex MBBO is calculated using the icMBBO combined with the best price currently available on the Strategy Book to establish the Exchange's best net bid or offer for a Complex Strategy.[28] The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away markets' best net bid or offer for a Complex Strategy using OPRA data. The Exchange is providing the Complex MBBO and Complex ABBO because both are relevant and tailored to a Member that is entering a Complex Order to remove liquidity as part of a Complex Strategy and, therefore, more germane to the purpose of the Complex Order Report.

Recipient Member's Response Information. The content of the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(1)(iii) is identical to the content of the Simple Order Report under Exchange Rule 531(a)(1)(iii). Amended Exchange Rule 531(b)(1)(iii) would provide that the following information would be included in the Complex Order Report regarding Complex Order(s) sent by the Recipient Member: (A) Recipient Member identifier;[29] (B) the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each Complex Order sent by the Recipient Member, regardless of whether it executed or not;[30] (C) size and type of each Complex Order submitted by the Recipient Member;[31] and (D) response reference number, which is a unique reference number attached to the response by the Recipient Member.[32]

Timeframe for Data Included in Report

The timeframe for data to be included the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(2) is identical to the timeframe for data included in the Simple Order Report under Exchange Rule 531(a)(2). Paragraph (b)(2) of Exchange Rule 531 would provide that the Complex Order Report would include the data set forth under Exchange Rule 531(b)(1) described above for executions and contra-side responses that occurred within 200 microseconds of the time the resting order was received by the Exchange. The Exchange believes 200 microseconds is the appropriate timeframe because it understands most Members that would be interested in subscribing to the proposed Complex Order Report would submit their incoming liquidity removing Complex Orders within 200 microseconds of the time a contra-side Complex Order is posted to the Strategy Book.

Scope of Data Included in the Report

The scope of data to be included the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(3) is identical to the scope of data included in the Simple Order Report under Exchange Rule 531(a)(3). Paragraph (b)(3) of Exchange Rule 531 would provide that the Complex Order Report will only include trading data related to the Recipient Member and, subject to the proposed paragraph (4) of Exchange Rule 531(b) described below, will not include any other Member's trading data other than that listed in paragraphs (1)(i) and (ii) of Exchange Rule 531(b), described above. Like the Simple Order Report, the proposed Complex Order Report will not include information related to any Member other than the Recipient Member.[33]

Historical Data

Paragraph (b)(4) of Exchange Rule 531 would specify that the Complex Order Report will contain historical data from the prior trading day and will be available after the end of the trading day, generally on a T+1 basis. This is identical to the timeframe for when the Simple Order Report is made available.[34]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[35] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[36] 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. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the optional Complex Order Report to those interested in subscribing to receive the data. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[37] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

But for three differences, the description of the proposed Complex Order Report under Exchange Rule 531(b) is identical to that of the Simple Order Report under Exchange Rule 531(a).[38] The first difference concerns the content of the proposed Complex Order Report, which would be limited to incoming Complex Orders that seek to remove liquidity from the Exchange's Strategy Book. The Simple Order Report includes information about incoming orders seeking to remove liquidity from the Simple Order Book. This difference is immaterial because both reports include basically the same information and seek to serve the same purpose, to

the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(D).

[27] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(E).

[28] *See also supra* note 9.

[29] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(A).

[30] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(B). For purposes of calculating this duration of time, the Exchange will use the time the resting order and the Recipient Member's response(s) is received by the Exchange's network, both of which would be before the order and response(s) would be received by the System. This time difference would be provided in nanoseconds.

[31] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(C).

[32] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(D).

[33] *See* Exchange Rule 531(a)(3).

[34] *See* Exchange Rule 531(a)(4).

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *Id.*

[38] *See supra* note 5.

provide the Recipient Member with the same type of data necessary for them to evaluate their own trading behavior and order interactions on the Exchange; however, the Simple Order Report contains data relevant to the Simple Order Book while the proposed Complex Order Report contains data relevant to the Strategy Book.

The other two differences are that the Simple Order Report includes the MBBO, which is the Exchange's best bid or offer, and the ABBO, which is the best bid or offer of away exchanges. In their place, the proposed Complex Order Report would include the Complex MBBO and Complex ABBO. As discussed above, the Complex MBBO is calculated using the icMBBO combined with the best price currently available on the Strategy Book to establish the Exchange's best net bid or offer for a Complex Strategy.[39] The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away markets' best net bid or offer for a Complex Strategy using OPRA data. The Exchange is providing the Complex MBBO and Complex ABBO because both are relevant and tailored to a Member that is entering a Complex Order to remove liquidity as part of a Complex Strategy and, therefore, more germane to the purpose of the Complex Order Report. The Exchange believes these differences are appropriate because providing the Complex MBBO in place of the MBBO and the Complex ABBO in place of the ABBO are more germane to the purpose of the proposed Complex Order Report.

Like the Simple Order Report, the Exchange believes the proposed Complex Order Report will serve to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest by providing Members access to information regarding their trading activity that they may utilize to evaluate their own Complex Order trading behavior and order interactions. Also, like the Simple Order Report, the proposed Complex Order Report is designed for Members that are interested in gaining insight into latency in connection with Complex Orders that failed to execute against an order resting on the Exchange's Strategy Book by providing those Members data to analyze by how much time their Complex Order may have missed an execution against a contra-side order resting on the Strategy Book. The Exchange believes that providing this optional latency data to interested Members is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides greater visibility into the latency of Members' incoming orders that they may use to optimize their models and trading patterns in an effort to yield better execution results by calculating by how much time their order may have missed an execution. This would, in turn, benefit other market participants who may experience better executions on the Exchange because those that use the proposed Complex Order Report may re-calibrate their trading models and then increase their trading on the Exchange and volume of liquidity removing orders. This could lead to an increase in incoming liquidity removing orders resulting in higher execution rates for Members who primarily place resting orders on the Strategy Book. The proposed Complex Order Report may benefit other market participants who would receive greater fill rates, thereby facilitating transactions in securities and perfecting the mechanism of the national market system.

As discussed above, the Exchange currently fields ad hoc requests from Members for information regarding the timeliness of their attempts to execute against resting options liquidity on the Exchange's Strategy Book. The proposal promotes just and equitable principles of trade because it would provide latency information in a systematized way and standardized format to any Member that chooses to subscribe to the proposed Complex Order Report. As a result, the proposal would also remove impediments to and perfect the mechanism of a free and open market and a national market system by making latency information for liquidity-seeking orders available in a more equalized manner. The proposal further promotes just and equitable principles of trade by increasing transparency, particularly for Recipient Members that may not have the expertise to generate the same information on their own. The proposed Complex Order Report may better enable Recipient Members to increase the fill rates for their liquidity-seeking Complex Orders. At the same time, as is also discussed above, the Complex Order Report promotes just and equitable principles of trade and protects investors and the public interest because it is designed to prevent a Recipient Member from learning other Members' sensitive trading information. The Complex Order Report would not be a real-time market data product, as it would provide only historical trading data for the previous trading day, generally on a T+1 basis. In addition, the data in the Complex Order Report regarding incoming orders that failed to execute would be specific to the Recipient Member's Complex Orders, and other information in the proposed Complex Order Report regarding resting orders and executions would be anonymized if it relates to a Member other than the Recipient Member.

The Complex Order Report generally would contain three buckets of information. The first two buckets include information about the resting order and the execution of the resting order. This information is available from the Exchange's proprietary data feeds or derivable from OPRA. For example, the Exchange offers the Complex Top of Market (''cToM'') feed which provides real-time quote and last sale information for all displayed orders on the Strategy Book.[40]

Specifically, the first bucket of information contained in the proposed Complex Order Report for the resting order would include the time the resting order was received by the Exchange, the symbol, unique reference number assigned at the time of receipt, side (buy or sell), and the displayed price and size of the resting order. The symbol, origin type, side (buy or sell), and displayed price and size are also available via the Exchange's proprietary data feeds. The first bucket of information would also indicate whether the Recipient Member is an Affiliate of the Member that entered the resting order. This data field would not indicate the identity of the Member that entered the resting order and would simply allow the Recipient Member to better understand the scenarios in which it may execute against the orders of its Affiliates.[41]

The second bucket of information contained in the proposed Complex Order Report pertains to the execution of the resting order and includes the Complex MBBO and Complex ABBO at the time of execution. These data points are also derivable from information disseminated via OPRA or available via the Exchange's proprietary data feeds. The second bucket of information would also indicate whether the response was entered by the Recipient

[39] *See also supra* note 9.

[40] *See* Section 6(a) of the Exchange's Fee Schedule.

[41] The Exchange surveils to monitor for aberrant behavior related to internalized trades and identify potential wash sales.

Member. This data point would be simply provided as a convenience. If not entered by the Recipient Member, this data point would be left blank so as not to include any identifying information about other Member activity. The second bucket of information would also include the size, time and type of first response [42] that executes against the resting order; as well as the time difference between the time the resting order and first response that executes against the resting order are received by the Exchange. These data points would assist the Recipient Member in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Strategy Book.

The third bucket of information would be about the Recipient Member's response(s) and the time their response(s) is received by the Exchange. This would include the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member, regardless of whether it executed or not. As above, this data point would assist the Recipient Member in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Strategy Book. This bucket would also include the size and type of each response submitted by the Recipient Member, the Recipient Member identifier, and a response reference number, which is selected by the Recipient Member. Each of these data points are unique to the Recipient Member and should already be known by the Recipient Member even if not included in the Complex Order Report.

The Exchange proposes to provide the Complex Order Report on a voluntary basis and no Member will be required to subscribe to the Complex Order Report. The Exchange notes that there is no rule or regulation that requires the Exchange to produce, or that a Member elect to receive, the proposed Complex Order Report. It would be entirely a business decision of each Member to subscribe to the proposed Complex Order Report. The Exchange proposes to offer the Complex Order Report as a convenience to Members to provide them with additional information regarding trading activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the proposed Complex Order Report may discontinue receiving the Complex Order Report at any time if that Member determines that the information contained in the Complex Order Report is no longer useful.

In summary, the proposed Complex Order Report will help to protect a free and open market by providing additional data (offered on an optional basis) to the marketplace and by providing investors with greater choices.[43] Additionally, the proposal would not permit unfair discrimination because the proposed Complex Order Report will be available to all Exchange Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

Inter-Market Competition

The proposed Complex Order Report will allow the Exchange to provide a new option for Members to receive historical latency related data. The proposed Complex Order Report will also further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. The latency information that would be provided in the proposed Complex Order Report would enhance competition between exchanges that offer complex order functionality because it would allow Recipient Members to recalibrate their models and trading strategies to improve their overall trading experience on the Exchange. This may improve the Exchange's overall trading environment resulting in increased liquidity and order flow on the Exchange. In response, other exchanges may similarly seek ways to provide latency related data in an effort to improve their own market quality.

Intra-Market Competition

The proposed rule change to offer the optional Complex Order Report is in response to Member interest and requests for such information. The Exchange does not believe the proposed Complex Order Report will have an inappropriate burden on intra-market competition between Recipient Members and other Members who choose not to receive the Complex Order Report. As discussed above, the first two buckets of information included in the Complex Order Report contain information about the resting order and the execution of the resting order, both of which are generally available to Members that choose not to receive the Complex Order Report from other sources, such as by deriving these data points from OPRA or obtaining them from the Exchange's proprietary data feeds. The third bucket of information pertains to the Recipient Member's response and the time their response is received by the Exchange, information which latency sensitive Members that do not subscribe to the proposed Complex Order Report could obtain on their own based on their knowledge of when they sent their response to the Exchange and via timestamp information provided by the acknowledgment message received from the Exchange. However, latency sensitive Members that do not subscribe to the proposed Complex Order Report would not be able to obtain the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member. Such latency sensitive Members may not view this information as beneficial based on their own trading models and systems. Other Members that do not subscribe to the proposed Complex Order Report may not view the entire proposed Complex Order Report as useful due to their own trading behaviors and business models. Such Members may not be latency sensitive and may be interested primarily in providing resting liquidity on the Exchange's Strategy Book, or they may simply be connected to the Exchange for best execution purposes or to comply with the trade-through requirements under Chapter XIV of the Exchange's Rules.[44] Additionally, some Members may already be able to derive a substantial amount of the same data that is provided by some of the components based on their own executions and algorithms.

In sum, if the proposed Complex Order Report is unattractive to Members, Members will opt not to receive it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing order execution venues to maintain their competitive standing in the financial markets.

[42] *See supra* note 25.

[43] *See* Sec. Indus. Fin. Mkts. Ass'n (SIFMA), Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 (ALJ June 1, 2016) (finding the existence of vigorous competition with respect to non-core market data).

[44] *See* Exchange Rule 1401, Order Protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [45] and Rule 19b–4(f)(6) [46] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2022–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2022–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2022–06, and should be submitted on or before March 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

J. Matthew DeLesDernier,

Assistant Secretary.

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[45] 15 U.S.C. 78s(b)(3)(A).

[46] 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.

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94136; File No. SR–EMERALD–2022–02]

Self-Regulatory Organizations: MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 531 To Provide for the New Liquidity Taker Event Report—Complex Orders

February 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2022, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 531(b) to provide for the new ''Liquidity Taker Event Report—Complex Orders''.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald* at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently offers the Liquidity Taker Event Report, which is a Member [3]-specific report and helps Members to better understand by how much time a particular order missed executing against a specific order resting on the Exchange's Simple Order Book.[4] The current Liquidity Taker Event Report is described under Exchange Rule 531(a).[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] The term ''Simple Order Book'' means ''the Exchange's regular electronic book of orders and quotes.'' *See* Exchange Rule 518(a)(15).

[5] *See* Securities Exchange Act Release No. 91787 (May 6, 2021), 86 FR 26111 (May 12, 2021) (SR–EMERALD–2021–09) (Order Approving Proposed Rule Change To Adopt Exchange Rule 531(a), Reports, To Provide for a New ''Liquidity Taker Event Report'').

The Exchange now proposes to amend Exchange Rule 531(b)[6] to provide for the new ''Liquidity Taker Event Report—Complex Orders'' (the ''Complex Order Report'') which would be substantially similar to the existing Liquidity Taker Event Report, but would include data concerning a Member's Complex Orders.[7] The Exchange also proposes to change the name of the existing Liquidity Taker Event Report to ''Liquidity Taker Event Report—Simple Orders'' and amend Exchange Rule 531(a) accordingly (the ''Liquidity Taker Event Report—Simple Orders'' shall be referred to herein as the ''Simple Order Report'').

The Simple Order Report includes information about incoming orders seeking to remove resting orders from the Simple Order Book. The proposed Complex Order Report would include the same information about incoming Complex Orders that seek to remove Complex Orders resting on the Strategy Book.[8] Two other differences between the proposed Complex Order Report and the Simple Order Report are that the proposed Complex Order Report will include the Complex EBBO[9] in place of the EBBO and Complex ABBO[10] in place of the ABBO, as described further below. These are minor differences designed to provide the EBBO and ABBO that are relevant to trading Complex Orders. Otherwise, the content and dissemination of the proposed Complex Order Report set forth under amended Exchange Rule 531(b) will be identical to that of the Simple Order Report under Exchange Rule 531(a). Other than the difference set forth above, the Exchange represents that there are no other differences between Simple Orders and Complex Orders that would necessitate any other changes to the proposed Complex Order Report or render the effects or use of the proposed Complex Order Report as different from the Simple Order Report.

Like the Simple Order Report, the proposed Complex Order Report is an optional product[11] available to Members. Currently, the Exchange provides real-time prices and analytics in the marketplace. The Exchange believes the additional data points from the matching engine outlined below may help Members gain a better understanding about their Complex Order interactions with the Exchange. The Exchange believes the proposed Complex Order Report will provide Members with an opportunity to learn more about better opportunities to access liquidity and receive better execution rates when trading Complex Orders. The proposed Complex Order Report will increase transparency and democratize information so that all firms that subscribe to the proposed Complex Order Report have access to the same information on an equal basis, even for firms that do not have the appropriate resources to generate a similar report regarding interactions with the Exchange. Like the Simple Order Report, none of the components of the proposed Complex Order Report include real-time market data.

Members generally would use a liquidity accessing order if there is a high probability that it will execute against an order resting on the Exchange's Simple Order Book. Like the Simple Order Report, the proposed Complex Order Report would identify by how much time an order that may have been marketable missed an execution. In the case of the proposed Complex Order Report, the incoming order would be a Complex Order submitted to trade against a resting order for a Complex Strategy. The proposed Complex Order Report will provide greater visibility into the missed trading execution, which will allow Members to optimize their models and trading patterns to yield better execution results when trading Complex Orders.

Like the Simple Order Report, the proposed Complex Order Report will be a Member-specific report and will help Members to better understand by how much time a particular order, in this case a Complex Order, missed executing against a specific resting order, thus allowing that Member to determine whether it wants to invest in the necessary resources and technology to mitigate missed executions against certain resting orders on the Exchange's Strategy Book. For example, Member A submits a Complex Order that is posted to the Strategy Book and then, within 200 microseconds of the entry of Member A's Complex Order, Member B enters a marketable Complex Order to execute against Member A's resting Complex Order. Immediately thereafter, Member C also within 200 microseconds of the entry of Member A's Complex Order, sends a marketable Complex Order to execute against Member A's resting Complex Order. Because Member B's Complex Order is received by the Exchange before the Complex Order for Member C Member B's Complex Order executes against Member A's resting Complex Order. If Member C were to subscribe to the proposed Complex Order Report, it would be provided the data points necessary for that firm to calculate by how much time they missed executing against Member A's resting Complex Order.

Like the Simple Order Report, the Exchange proposes to provide the proposed Complex Order Report on a T+1 basis. As further described below, the proposed Complex Order Report will be specific and tailored to the Member that is subscribed to the Complex Order Report and any data included in the Complex Order Report that relates to a Member other than the Member receiving the Complex Order Report will be anonymized.

The Exchange proposes to provide the Complex Order Report in response to Member demand for data concerning the timeliness of their incoming Complex Orders and executions against resting

[6] Currently, Exchange Rule 531(b) is titled ''Market Data Products'' and provides the rule text for the Open-Close Report. *See* Exchange Rule 531(b). With this filing, the Exchange also proposes to move the rule text for Market Data Products to now be renumbered as Exchange Rule 531(c). The Exchange does not propose to amend any of the rule text for Market Data Products as currently stated in Exchange Rule 531.

[7] In sum, a ''Complex Order'' is ''any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the 'legs' or 'components' of the complex order), for the same account . . . .'' *See* Exchange Rule 518(a)(5).

[8] The term ''Complex Strategy'' means ''a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex order or by the Exchange for a complex strategy that is not currently in the System.'' *See* Exchange Rule 518(a)(6). The term ''Strategy Book'' means the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17). The Strategy Book is organized by Complex Strategy in that individual orders for a defined Complex Strategy are organized together in a book that is separate from the orders for a different Complex Strategy.

[9] The term ''EBBO'' means the Exchange's best bid or offer. *See* Exchange Rule 100. The Complex EBBO for a particular Complex Strategy is calculated using the Implied Complex MIAX Emerald Best Bid or Offer (''icEBBO'') combined with the best price currently available for that particular Complex Strategy on the Strategy Book to establish the Exchange's best net bid or offer for that Complex Strategy. The icEBBO is calculated using the best price from the Simple Order Book for each component of a Complex Strategy including displayed and non-displayed trading interest. For stock-option orders, the icEBBO for a Complex Strategy is calculated using the best price (whether displayed or non-displayed) on the Simple Order Book in the individual option component(s), and the NBBO in the stock component. *See* Exchange Rule 518(a)(12).

[10] The term ''ABBO'' or ''Away Best Bid or Offer'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from the Options Price Reporting Authority (''OPRA''). *See* Exchange Rule 100. The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away markets' best net bid or offer for a Complex Strategy.

[11] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the proposed Complex Order Report.

orders. Members have found the existing Simple Order Report helpful and have periodically requested similar information from the Exchange regarding their Complex Orders. This has come in the form of requests by Members to the Exchange's trading operations personnel for information concerning the timeliness of their incoming Complex Orders and efficacy of their attempts to execute against resting liquidity on the Exchange's Strategy Book. The purpose of the proposed Complex Order Report is to provide Recipient Members the necessary data in a standardized format on a T+1 and equal basis.

Similar to current Exchange Rule 531(a) regarding the Simple Order Report, amended Exchange Rule 531(b) would provide that the proposed Complex Order Report is a daily report that provides a Member (''Recipient Member'') with its liquidity response time details for executions of an order resting on the Strategy Book, where that Recipient Member submitted a Complex Order that attempted to execute against such resting Complex Order within a certain timeframe.

Report Content

The content of the proposed Complex Order Report would be identical to the Simple Order Report, but for two minor differences discussed below. Paragraph (b)(1) of Rule 531 would describe the content of the proposed Complex Order Report and delineate which information would be provided regarding the resting order,[12] the response that successfully executed against the resting order, and the response submitted by the Recipient Member that missed executing against the resting order. It is important to note that the content of the proposed Complex Order Report will be specific to the Recipient Member and the proposed Complex Order Report will not include any information related to any Member other than the Recipient Member. The Exchange will restrict all other market participants, including the Recipient Member, from receiving another market participant's data.

Resting Order Information. The content of the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(1)(i) is identical to the content of the Simple Order Report under Exchange Rule 531(a)(1)(i). However, as noted above, the content of the proposed Complex Order Report would be limited to incoming Complex Orders that seek to remove liquidity from the Exchange's Strategy Book.

Amended Exchange Rule 531(b)(1)(i) would provide that the following information would be included in the proposed Complex Order Report regarding the resting order: (A) The time the resting order was received by the Exchange;[13] (B) symbol;[14] (C) order reference number, which is a unique reference number assigned to a new Complex Order at the time of receipt;[15] (D) whether the Recipient Member is an Affiliate[16] of the Member that entered the resting order;[17] (E) origin type (*e.g.,* Priority Customer,[18] Market Maker[19]);[20] (F) side (buy or sell);[21] and (G) displayed price and size of the resting order.[22]

Execution Information. Amended Exchange Rule 531(b)(1)(ii) would provide that the following information would be included in the proposed Complex Order Report regarding the execution of the resting order: (A) The Complex EBBO at the time of execution;[23] (B) the Complex ABBO at the time of execution;[24] (C) the time the first response that executes against the resting order was received by the Exchange and the size of the execution and type of the response;[25] (D) the time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the Exchange;[26] and (E) whether the response was entered by the Recipient Member.[27] If the resting order executes against multiple contra-side responses, only the Complex EBBO and Complex ABBO at the time of the execution against the first response will be included.

The content of the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(1)(ii) is identical to the content of the Simple Order Report under Exchange Rule 531(a)(1)(ii) with two minor differences. The Simple Order Report includes the EBBO, which is the Exchange's best bid or offer, and the ABBO, which is the best bid or offer of away exchanges. In their place, the proposed Complex Order Report would include the Complex EBBO and Complex ABBO. The Complex EBBO is calculated using the EBBO for each component of a Complex Strategy to establish the Exchange's best net bid or offer for a Complex Strategy. As discussed above, the Complex EBBO is calculated using the icEBBO combined with the best price currently available on the Strategy Book to establish the Exchange's best net bid or offer for a Complex Strategy.[28] The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away

[12] Like the Simple Order Report, only displayed orders will be included in the proposed Complex Order Report. The Exchange notes that it does not currently offer any non-displayed order types on its options trading platform.

[13] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(A).

[14] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(B).

[15] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(C).

[16] The term ''affiliate'' of or person ''affiliated with'' another person means a person who, directly, or indirectly, controls, is controlled by, or is under common control with, such other person. *See* Exchange Rule 100.

[17] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(D). The Report will simply indicate whether the Recipient Member is an Affiliate of the Member that entered the resting order and not include any other information that may indicate the identity of the Member that entered the resting order.

[18] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 to Exchange Rule 100. *See* Exchange Rule 100.

[19] The term ''Market Maker'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[20] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(E).

[21] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(F).

[22] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(i)(G). The Exchange notes that the displayed price and size are also disseminated via the Exchange's proprietary data feeds.

[23] Similar information is included in the Simple Order Report. Exchange Rule 531(b)(1)(ii)(A) would similarly provide that if the resting order executes against multiple contra-side responses, only the Complex EBBO at the time of the execution against the first response will be included.

[24] Similar information is included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(B). Exchange Rule 531(b)(1)(ii)(B) would similarly provide that if the resting order executes against multiple contra-side responses, only the Complex ABBO at the time of the execution against the first response will be included.

[25] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(C). The time the Exchange received the response order would be in nanoseconds and would be the time the response was received by the Exchange's network, which is before the time the response would be received by the System. The type of responses that would be identified in the proposed Complex Order Report are Standard Quotes and eQuotes. A ''Standard Quote'' is a quote submitted by a Market Maker that cancels and replaces the Market Maker's previous Standard Quote, if any. *See* Exchange Rule 517(a)(1). An ''eQuote'' is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. An eQuote can be cancelled by the Market Maker at any time, or can be replaced by another eQuote that contains specific instructions to cancel an existing eQuote. *See* Exchange Rule 517(a)(2).

[26] The time difference would be provided in nanoseconds. This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(D).

[27] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(ii)(E).

[28] *See also supra* note 9.

markets' best net bid or offer for a Complex Strategy using OPRA data. The Exchange is providing the Complex EBBO and Complex ABBO because both are relevant and tailored to a Member that is entering a Complex Order to remove liquidity as part of a Complex Strategy and, therefore, more germane to the purpose of the Complex Order Report.

Recipient Member's Response Information. The content of the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(1)(iii) is identical to the content of the Simple Order Report under Exchange Rule 531(a)(1)(iii). Amended Exchange Rule 531(b)(1)(iii) would provide that the following information would be included in the Complex Order Report regarding Complex Order(s) sent by the Recipient Member: (A) Recipient Member identifier; [29] (B) the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each Complex Order sent by the Recipient Member, regardless of whether it executed or not; [30] (C) size and type of each Complex Order submitted by the Recipient Member; [31] and (D) response reference number, which is a unique reference number attached to the response by the Recipient Member.[32]

Timeframe for Data Included in Report

The timeframe for data to be included the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(2) is identical to the timeframe for data included in the Simple Order Report under Exchange Rule 531(a)(2). Paragraph (b)(2) of Exchange Rule 531 would provide that the Complex Order Report would include the data set forth under Exchange Rule 531(b)(1) described above for executions and contra-side responses that occurred within 200 microseconds of the time the resting order was received by the Exchange. The Exchange believes 200 microseconds is the appropriate timeframe because it understands most Members that would be interested in subscribing to the proposed Complex Order Report would submit their incoming liquidity removing Complex Orders within 200 microseconds of the time a contra-side Complex Order is posted to the Strategy Book.

Scope of Data Included in the Report

The scope of data to be included the proposed Complex Order Report set forth under amended Exchange Rule 531(b)(3) is identical to the scope of data included in the Simple Order Report under Exchange Rule 531(a)(3). Paragraph (b)(3) of Exchange Rule 531 would provide that the Complex Order Report will only include trading data related to the Recipient Member and, subject to the proposed paragraph (4) of Exchange Rule 531(b) described below, will not include any other Member's trading data other than that listed in paragraphs (1)(i) and (ii) of Exchange Rule 531(b), described above. Like the Simple Order Report, the proposed Complex Order Report will not include information related to any Member other than the Recipient Member.[33]

Historical Data

Paragraph (b)(4) of Exchange Rule 531 would specify that the Complex Order Report will contain historical data from the prior trading day and will be available after the end of the trading day, generally on a T+1 basis. This is identical to the timeframe for when the Simple Order Report is made available.[34]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[35] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [36] 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. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the optional Complex Order Report to those interested in subscribing to receive the data. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [37] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

But for three differences, the description of the proposed Complex Order Report under Exchange Rule 531(b) is identical to that of the Simple Order Report under Exchange Rule 531(a), which was recently approved by the Commission.[38] The first difference concerns the content of the proposed Complex Order Report, which would be limited to incoming Complex Orders that seek to remove liquidity from the Exchange's Strategy Book. The Simple Order Report includes information about incoming orders seeking to remove liquidity from the Simple Order Book. This difference is immaterial because both reports include basically the same information and seek to serve the same purpose, to provide the Recipient Member with the same type of data necessary for them to evaluate their own trading behavior and order interactions on the Exchange; however, the Simple Order Report contains data relevant to the Simple Order Book while the proposed Complex Order Report contains data relevant to the Strategy Book.

The other two differences are that the Simple Order Report includes the EBBO, which is the Exchange's best bid or offer, and the ABBO, which is the best bid or offer of away exchanges. In their place, the proposed Complex Order Report would include the Complex EBBO and Complex ABBO. As discussed above, the Complex EBBO is calculated using the icEBBO combined with the best price currently available on the Strategy Book to establish the Exchange's best net bid or offer for a Complex Strategy.[39] The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away markets' best net bid or offer for a Complex Strategy using OPRA data. The Exchange is providing the Complex EBBO and Complex ABBO because both are relevant and tailored to a Member that is entering a Complex Order to remove liquidity as part of a Complex Strategy and, therefore, more germane to the purpose of the Complex Order Report. The Exchange believes

[29] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(A).

[30] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(B). For purposes of calculating this duration of time, the Exchange will use the time the resting order and the Recipient Member's response(s) is received by the Exchange's network, both of which would be before the order and response(s) would be received by the System. This time difference would be provided in nanoseconds.

[31] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(C).

[32] This information is also included in the Simple Order Report. *See* Exchange Rule 531(a)(1)(iii)(D).

[33] *See* Exchange Rule 531(a)(3).

[34] *See* Exchange Rule 531(a)(4).

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *Id.*

[38] *See supra* note 5.

[39] *See also supra* note 9.

these differences are appropriate because providing the Complex EBBO in place of the EBBO and the Complex ABBO in place of the ABBO are more germane to the purpose of the proposed Complex Order Report.

Like the Simple Order Report, the Exchange believes the proposed Complex Order Report will serve to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest by providing Members access to information regarding their trading activity that they may utilize to evaluate their own Complex Order trading behavior and order interactions. Also, like the Simple Order Report, the proposed Complex Order Report is designed for Members that are interested in gaining insight into latency in connection with Complex Orders that failed to execute against an order resting on the Exchange's Strategy Book by providing those Members data to analyze by how much time their Complex Order may have missed an execution against a contra-side order resting on the Strategy Book. The Exchange believes that providing this optional latency data to interested Members is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides greater visibility into the latency of Members' incoming orders that they may use to optimize their models and trading patterns in an effort to yield better execution results by calculating by how much time their order may have missed an execution. This would, in turn, benefit other market participants who may experience better executions on the Exchange because those that use the proposed Complex Order Report may re-calibrate their trading models and then increase their trading on the Exchange and volume of liquidity removing orders. This could lead to an increase in incoming liquidity removing orders resulting in higher execution rates for Members who primarily place resting orders on the Strategy Book. The proposed Complex Order Report may benefit other market participants who would receive greater fill rates, thereby facilitating transactions in securities and perfecting the mechanism of the national market system.

As discussed above, the Exchange currently fields ad hoc requests from Members for information regarding the timeliness of their attempts to execute against resting options liquidity on the Exchange's Strategy Book. The proposal promotes just and equitable principles of trade because it would provide latency information in a systematized way and standardized format to any Member that chooses to subscribe to the proposed Complex Order Report. As a result, the proposal would also remove impediments to and perfect the mechanism of a free and open market and a national market system by making latency information for liquidity-seeking orders available in a more equalized manner. The proposal further promotes just and equitable principles of trade by increasing transparency, particularly for Recipient Members that may not have the expertise to generate the same information on their own. The proposed Complex Order Report may better enable Recipient Members to increase the fill rates for their liquidity-seeking Complex Orders. At the same time, as is also discussed above, the Complex Order Report promotes just and equitable principles of trade and protects investors and the public interest because it is designed to prevent a Recipient Member from learning other Members' sensitive trading information. The Complex Order Report would not be a real-time market data product, as it would provide only historical trading data for the previous trading day, generally on a T+1 basis. In addition, the data in the Complex Order Report regarding incoming orders that failed to execute would be specific to the Recipient Member's Complex Orders, and other information in the proposed Complex Order Report regarding resting orders and executions would be anonymized if it relates to a Member other than the Recipient Member.

The Complex Order Report generally would contain three buckets of information. The first two buckets include information about the resting order and the execution of the resting order. This information is available from the Exchange's proprietary data feeds or derivable from OPRA. For example, the Exchange offers the Complex Top of Market (''cToM'') feed which provides real-time quote and last sale information for all displayed orders on the Strategy Book.[40]

Specifically, the first bucket of information contained in the proposed Complex Order Report for the resting order would include the time the resting order was received by the Exchange, the symbol, unique reference number assigned at the time of receipt, side (buy or sell), and the displayed price and size of the resting order. The symbol, origin type, side (buy or sell), and displayed price and size are also available via the Exchange's proprietary data feeds. The first bucket of information would also indicate whether the Recipient Member is an Affiliate of the Member that entered the resting order. This data field would not indicate the identity of the Member that entered the resting order and would simply allow the Recipient Member to better understand the scenarios in which it may execute against the orders of its Affiliates.[41]

The second bucket of information contained in the proposed Complex Order Report pertains to the execution of the resting order and includes the Complex EBBO and Complex ABBO at the time of execution. These data points are also derivable from information disseminated via OPRA or available via the Exchange's proprietary data feeds. The second bucket of information would also indicate whether the response was entered by the Recipient Member. This data point would be simply provided as a convenience. If not entered by the Recipient Member, this data point would be left blank so as not to include any identifying information about other Member activity. The second bucket of information would also include the size, time and type of first response[42] that executes against the resting order; as well as the time difference between the time the resting order and first response that executes against the resting order are received by the Exchange. These data points would assist the Recipient Member in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Strategy Book.

The third bucket of information would be about the Recipient Member's response(s) and the time their response(s) is received by the Exchange. This would include the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member, regardless of whether it executed or not. As above, this data point would assist the Recipient Member in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Strategy Book. This bucket would also include the size and type of each response submitted by the

[40] *See* Section 6(a) of the Exchange's Fee Schedule.

[41] The Exchange surveils to monitor for aberrant behavior related to internalized trades and identify potential wash sales.

[42] *See supra* note 25.

Recipient Member, the Recipient Member identifier, and a response reference number, which is selected by the Recipient Member. Each of these data points are unique to the Recipient Member and should already be known by the Recipient Member even if not included in the Complex Order Report.

The Exchange proposes to provide the Complex Order Report on a voluntary basis and no Member will be required to subscribe to the Complex Order Report. The Exchange notes that there is no rule or regulation that requires the Exchange to produce, or that a Member elect to receive, the proposed Complex Order Report. It would be entirely a business decision of each Member to subscribe to the proposed Complex Order Report. The Exchange proposes to offer the Complex Order Report as a convenience to Members to provide them with additional information regarding trading activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the proposed Complex Order Report may discontinue receiving the Complex Order Report at any time if that Member determines that the information contained in the Complex Order Report is no longer useful.

In summary, the proposed Complex Order Report will help to protect a free and open market by providing additional data (offered on an optional basis) to the marketplace and by providing investors with greater choices.[43] Additionally, the proposal would not permit unfair discrimination because the proposed Complex Order Report will be available to all Exchange Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

Inter-Market Competition

The proposed Complex Order Report will allow the Exchange to provide a new option for Members to receive historical latency related data. The proposed Complex Order Report will also further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. The latency information that would be provided in the proposed Complex Order Report would enhance competition between exchanges that offer complex order functionality because it would allow Recipient Members to recalibrate their models and trading strategies to improve their overall trading experience on the Exchange. This may improve the Exchange's overall trading environment resulting in increased liquidity and order flow on the Exchange. In response, other exchanges may similarly seek ways to provide latency related data in an effort to improve their own market quality.

Intra-Market Competition

The proposed rule change to offer the optional Complex Order Report is in response to Member interest and requests for such information. The Exchange does not believe the proposed Complex Order Report will have an inappropriate burden on intra-market competition between Recipient Members and other Members who choose not to receive the Complex Order Report. As discussed above, the first two buckets of information included in the Complex Order Report contain information about the resting order and the execution of the resting order, both of which are generally available to Members that choose not to receive the Complex Order Report from other sources, such as by deriving these data points from OPRA or obtaining them from the Exchange's proprietary data feeds. The third bucket of information pertains to the Recipient Member's response and the time their response is received by the Exchange, information which latency sensitive Members that do not subscribe to the proposed Complex Order Report could obtain on their own based on their knowledge of when they sent their response to the Exchange and via timestamp information provided by the acknowledgment message received from the Exchange. However, latency sensitive Members that do not subscribe to the proposed Complex Order Report would not be able to obtain the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member. Such latency sensitive Members may not view this information as beneficial based on their own trading models and systems. Other Members that do not subscribe to the proposed Complex Order Report may not view the entire proposed Complex Order Report as useful due to their own trading behaviors and business models. Such Members may not be latency sensitive and may be interested primarily in providing resting liquidity on the Exchange's Strategy Book, or they may simply be connected to the Exchange for best execution purposes or to comply with the trade-through requirements under Chapter XIV of the Exchange's Rules.[44] Additionally, some Members may already be able to derive a substantial amount of the same data that is provided by some of the components based on their own executions and algorithms.

In sum, if the proposed Complex Order Report is unattractive to Members, Members will opt not to receive it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[45] and Rule 19b–4(f)(6)[46] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[43] *See* Sec. Indus. Fin. Mkts. Ass'n (SIFMA), Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 (ALJ June 1, 2016) (finding the existence of vigorous competition with respect to non-core market data).

[44] Chapter XIV of the Exchange Rules incorporates by reference Rule 1401, Order Protection, of the Exchange's affiliate, the Miami International Securities Exchange, LLC.

[45] 15 U.S.C. 78s(b)(3)(A).

[46] 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.

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EMERALD–2022–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–EMERALD–2022–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EMERALD–2022–02 and should be submitted on or before March 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–02553 Filed 2–7–22; 8:45 am]

BILLING CODE 8011–01–P

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, February 10, 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: February 3, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–02655 Filed 2–4–22; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Audit and Financial Management Advisory Committee

AGENCY: Small Business Administration.

ACTION: Notice of renewal of Audit and Financial Management Advisory Committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act and its implementing regulations, SBA is issuing this notice to announce the renewal of its Audit and Financial Management Advisory Committee. This advisory committee is being renewed to provide advice and recommendations to SBA on government accounting and performance issues impacting the agency.

FOR FURTHER INFORMATION CONTACT: Questions about the Audit and Financial Management Advisory Committee may be directed to Andrienne Johnson, Office of the Administrator, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; *Andrienne.Johnson@sba.gov;* 202–205–6605.

SUPPLEMENTARY INFORMATION: Pursuant to its authority in section 8(b)(13) of the Small Business Act, (15 U.S.C. 637), SBA is renewing the Audit and Financial Management Advisory Committee. This discretionary committee is being renewed in accordance with the provision of the Federal Advisory Committee Act, as amended (5 U.S.C. App.)

The AFMAC is tasked with providing recommendations and advice regarding the Agency's financial management, including the financial reporting process, systems of internal controls, audit process and process for monitoring compliance with relevant law and regulations.

Dated: February 3, 2022.

Andrienne Johnson,

SBA Committee Management Officer.

[FR Doc. 2022–02627 Filed 2–7–22; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Notice of Renewal of Council on Underserved Communities

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act and its implementing regulations, SBA is issuing this notice to announce the renewal of its Council on Underserved Communities. This advisory committee is being renewed to help the agency identify and address needs of small businesses on underserved urban and rural communities.

FOR FURTHER INFORMATION CONTACT: Questions about the Council on Underserved Communities may be directed to Andrienne Johnson, Office of the Administrator, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; *Andrienne.Johnson@sba.gov;* 202–205–6605.

SUPPLEMENTARY INFORMATION: Pursuant to its authority in section 8(b)(13) of the Small Business Act, (15 U.S.C. 637), SBA is renewing the Council on Underserved Communities. This discretionary committee is being renewed in accordance with the provision of the Federal Advisory Committee Act, as amended (5 U.S.C. App.)

The Council provides advice, ideas and opinions on SBA programs and services and issues of interest to small businesses in underserved communities. Its members provide an essential connection between SBA and small businesses in inner city and rural communities. The Council's scope of activities includes reviewing SBA current program and policies, while working towards creating new and insightful place-base initiatives to spur economic growth, job creations, competitiveness, and sustainability.

Council members bring a number of important points of view to the Council: An understanding of the barriers to success for small business owners in underserved communities; challenges regarding access to capital; knowledge and experience in training and counseling entrepreneurs in underserved communities; and associations representing owners of small business in underserved communities.

The Council has a total of up to twenty (20) members, 19 members-at-large and one Chair. Members consist of current or former small business owners, community leaders, official from small business trade associations, and academic institutions. Members represent the interest of underserved communities across the country, both rural and urban.

Dated: February 2, 2022.

Andrienne Johnson,

SBA Committee Management Officer.

[FR Doc. 2022–02565 Filed 2–7–22; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17332 and #17333; Virginia Disaster Number VA–00096]

Administrative Declaration of a Disaster for the Commonwealth of Virginia

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Virginia dated 02/02/2022.

Incident: Severe Storms and Flooding.

Incident Period: 08/30/2021 through 08/31/2021.

DATES: Issued on 02/02/2022.

Physical Loan Application Deadline Date: 04/04/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 11/02/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Buchanan

Contiguous Counties:

Virginia: Dickenson, Russell, Tazewell

West Virginia: McDowell, Mingo

Kentucky: Pike

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.125
Homeowners without Credit Available Elsewhere	1.563
Businesses with Credit Available Elsewhere	5.710
Businesses without Credit Available Elsewhere	2.855
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.855
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17332 6 and for economic injury is 17333 0.

The States which received an EIDL Declaration # are Kentucky, Virginia, West Virginia.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–02533 Filed 2–7–22; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11645]

Notice of Determinations; Culturally Significant Object Being Imported for Conservation and Exhibition—Determinations: ''Juan de Pareja'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that one object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary conservation and display in the exhibition ''Juan de Pareja'' at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary conservation and exhibition or display within the United States as aforementioned are in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–02605 Filed 2–7–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11648]

Request for Information on Conducting Anti-Trafficking Work Using a Racial Equity Lens

AGENCY: Department of State.

ACTION: Request for information.

SUMMARY: The Department of State, on behalf of the Senior Policy Operating Group (SPOG) (see Background section below for more information on the SPOG), requests written information on how it can advance racial justice and equity to assist in SPOG agencies' individual and the SPOG's collective implementation of *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.* This request for information (RFI) is part of the SPOG's ongoing efforts to engage and collaborate with diverse communities and develop an implementation plan for integrating racial equity into U.S. government anti-trafficking efforts. The implementation plan will also highlight the importance of an intersectional approach, as racism often compounds with other forms of discrimination to affect individuals' vulnerability to human trafficking. Additionally, it will complement agencies' individual work to implement *Diversity, Equity, Inclusion and Accessibility in the Federal Workforce* by sharing information and practices for increasing diversity in the federal workforce as an integral way to strengthen agencies' anti-trafficking work. Submissions must be made in writing to the Office to Monitor and Combat Trafficking in Persons at the Department of State by March 15, 2022. Please refer to the *Addresses, Scope of Interest,* and *Information Sought* sections of this Notice for additional instructions on submission requirements.

DATES: Submissions must be received by 5 p.m. EST on March 15, 2022.

ADDRESSES: Written submissions and supporting documentation, such as research studies, fieldwork, training materials, evaluations, assessments, and other relevant materials, may be submitted by email to: *TIPOutreach@state.gov*

Scope of Interest: The Department of State, on behalf of the SPOG, requests information relevant to increasing the SPOG agencies' collective awareness of the intersection between racial equity and U.S. government anti-trafficking policies and programs and to identify areas for collaboration and improvement. Because racism often compounds with other forms of discrimination to increase individuals' vulnerability to human trafficking, advancing racial equity may also complement agencies' efforts to improve equity more broadly, for example, in furtherance of E.O. 14020 (*Establishment of the White House Gender Policy Council*), E.O. 13988 (*Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*), E.O. 14031 (*Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders*), among other Presidential actions focused on advancing equity for systemically marginalized communities. Also, while E.O. 13985 covers both racial equity and support for underserved communities, this initiative will focus squarely on racial equity.

Submissions should not exceed 20 pages and should not include any information that cannot be made publicly available. The submitter may also include links to online material or interactive presentations but should ensure all links are publicly available. Attachments, linked resources, and documents do not count against the 20-page limit. Submissions should be written concisely, in plain language, and in a narrative format. Submitters may respond to part or all of the questions listed in this Notice. However, only those questions for which the submitter has direct personal or professional experience should be answered. Submitters should clearly identify the questions to which they are responding. Where appropriate, submissions should include citations, references, and/or links to the source material. If using primary sources, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, submitters should provide details on the research or data-gathering methodology and any supporting documentation. Each response should include, to the extent applicable:

- The name of the individual(s) and organization responding;
- A brief description of the mission or area of expertise of the responding individual(s) or organization(s);
- The name, phone number, and email address of a single point of contact for questions or other follow-up on the response; and
- The question(s) addressed in the submission.

Confidentiality: Submissions will be shared with the U.S. government agencies that are members of the SPOG and may be made publicly available. In addition, any information submitted to the Department of State may be releasable pursuant to the provisions of the Freedom of Information Act or other applicable law.

Response: The Department of State will confirm receipt of each submission and may reach out to parties who respond to this RFI with follow-up questions. The SPOG will continue to engage stakeholders and community members for the purposes of implementing E.O. 13985 and to continue improving its efforts.

SUPPLEMENTARY INFORMATION:

1. Background

E.O. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,* states the Administration policy to ''pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality'' which involves a whole-of-government approach.

Through this RFI, the SPOG seeks input, information, and recommendations from a broad array of stakeholders in the public, private, advocacy, not-for-profit, and philanthropic sectors, including state, local, tribal, and territorial areas, on available methods, approaches, and tools to apply a racial equity lens to Federal government anti-trafficking efforts.

Definitions

This RFI adopts the definition of the term ''equity'' used in E.O. 13985: The consistent and systematic fair, just, and impartial treatment of all individuals,

including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. Please note that different definitions of ''equity'' exist, which are complementary to but may not be identical with the definition in E.O. 13985.

The term ''forced labor'' is defined for U.S. enforcement purposes in two separate sections of the United States Code. In the criminal statutes of Title 18, it encompasses the range of activities involved when an individual or entity uses prohibited means that include force or physical threats; psychological coercion; abuse of the legal process; a scheme, plan, or pattern intended to hold a person in fear of serious harm; or other coercive means to obtain the labor or services of a person. Once a person's labor is obtained by such means, the person's previous consent or effort to obtain employment with the trafficker does not preclude the person from being considered a victim, or the government from prosecuting the offender. Forced labor in Title 18 also encompasses when an individual or entity knowingly benefits, financially or by receiving anything of value, from participating in a venture which has engaged in providing or obtaining labor or services by prohibited means, knowing or in reckless disregard of the fact that the venture has engaged in providing or obtaining labor or services by such prohibited means. Moreover, Title 18 also prohibits knowingly recruiting, harboring, transporting, providing, or obtaining by any means, any person for labor or services in violation of the forced labor statute, or other U.S. criminal statutes involving slavery, involuntary servitude, and peonage. In the customs-related statute of Title 19, it is also defined in connection with the prohibition on the importation of goods produced wholly or in part by forced labor, including forced child labor; convict labor; and/or indentured labor under penal sanctions. In this context, forced labor is defined as: ''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.'' In addition, Title 22 includes the following in the definition of ''severe forms of trafficking in persons'': ''the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.''

The term ''sex trafficking'' is when a person is caused to engage in a commercial sex act as the result of force, threats of force, fraud, coercion, or any combination of such means, or when a person under the age of 18 is caused to engage in commercial sex. Under such circumstances, perpetrators involved in recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting a person for that purpose are guilty of the federal crime of sex trafficking. This is true even if the victim previously consented to engage in commercial sex.

U.S. law explicitly includes a distinct definition of ''sex trafficking of children.'' Any child (under the age of 18) who has been recruited, enticed, harbored, transported, provided, obtained, advertised, maintained, patronized, or solicited to engage in a commercial sex act is a victim of human trafficking, regardless of whether or not force, fraud, or coercion is used.

The Senior Policy Operating Group (SPOG)

The SPOG is comprised of senior officials designated as representatives of the 20 federal departments and agencies of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons, a cabinet-level entity created by the Trafficking Victims Protection Act of 2000, that are responsible for coordinating U.S. government-wide efforts to combat trafficking in persons. The Trafficking Victims Protection Act, as amended in 2003, established the SPOG. The agencies of the SPOG are the Departments of State, the Treasury, Defense, Justice, the Interior, Agriculture, Commerce, Labor, Health and Human Services, Transportation, Education, and Homeland Security, as well as the Office of Management and Budget, the Office of the U.S. Trade Representative, the Office of the Director of National Intelligence, the National Security Council, the Domestic Policy Council, the U.S. Agency for International Development, the Federal Bureau of Investigation, and the U.S. Equal Employment Opportunity Commission. Agencies regularly convene to advance and coordinate federal policies and collaborate with a range of stakeholders.

Five standing committees meet regularly to advance substantive areas of the SPOG's work:

- Research & Data Committee—Facilitates forums and discussions on human trafficking data and prevalence among agencies, invites external researchers and experts to share their latest findings with the Committee, and works to ensure agencies' research efforts are complementary.
- Grantmaking Committee—Assists in planning and coordinating agencies' domestic and international anti-trafficking program activities and promotes evidence-based programming to build the knowledge base on human trafficking and propose solutions to enhance anti-trafficking activities.
- Public Awareness & Outreach—Serves as a forum for agencies to seek feedback and buy-in on agency-specific public awareness and outreach projects or resources, including on how to ensure a trauma-informed approach, and facilitates information-sharing on upcoming public awareness and outreach events, campaigns, and materials to allow for cross-promotion and/or collaboration among agencies.
- Victims Services Committee—Supports federal engagements and efforts that aim to promote a strategic, coordinated approach to the provision of services for victims of human trafficking at all levels of government; support evidence-based practices in victim services; provide and promote outreach, training, and technical assistance to increase victim identification and expand the availability of services; and promote effective, culturally appropriate, trauma-informed services that improve the short- and long-term health, safety, and well-being of victims.
- Procurement & Supply Chains—Seeks to ensure agencies understand their responsibilities under the Federal Acquisition Regulation (FAR), ''Ending Trafficking in Persons'' (*www.federalregister.gov/documents/2015/01/29/2015–01524/federal-acquisition-regulation-ending-trafficking-in-persons*); provides a forum through which agencies can work through challenges related to strengthening procurement safeguards and supply chain efforts, share data and promising practices for effective implementation of the FAR, and ensure efforts are not duplicative and that policies and procedures are consistent; and works to create a coordinated and collective U.S. government voice in relation to increasing corporate accountability and compliance in

combating forced labor in global supply chains more broadly.

In addition, the SPOG has created a few *ad hoc* working groups. Unlike the committees, these working groups are time-limited and formed to accomplish specific goals. As of the publication of this RFI, the SPOG has three active *ad hoc* working groups:

- *Ad Hoc* Working Group on Demand Reduction—To examine the role of demand reduction in preventing human trafficking or otherwise achieving the purposes of the TVPA and the Justice for Victims of Trafficking Act (consistent with Sec. 115 of Pub. L. 115–425).
- *Ad Hoc* Working Group on Rights and Protections of Temporary Workers—To analyze and compare the rights and protections granted to workers of each employment-based nonimmigrant visa category to identify which categories require additional protections related to the recruitment and treatment of workers; and to discuss ways to address any gaps and inconsistencies, including developing and proposing necessary regulatory or legislative changes (consistent with Priority Action 1.5.2 of the National Action Plan to Combat Human Trafficking).
- *Ad Hoc* Working Group on Screening Forms and Protocols—To develop best practices in implementing screening forms and protocols as relevant for all federal officials who have the potential to encounter a human trafficking victim in the course of their regular duties that do not otherwise pertain to human trafficking (consistent with Priority Action 2.1.1 of the National Action Plan to Combat Human Trafficking).

II. Information Sought Relevant To Conducting Anti-Trafficking Work Using a Racial Equity Lens

Submissions should include, but need not be limited to, answers to relevant questions below for which the submitter has direct personal or professional experience. Please see the *Scope of Interest* section above for detailed information regarding submission requirements.

1. What does racial equity mean in the context of human trafficking? What does a racially equitable anti-trafficking framework look like, particularly for a law enforcement response and prosecution response, victim assistance efforts, and prevention strategy? Are there specific considerations for responding to sex trafficking and to labor trafficking, including forced labor?

2. Please describe any racial injustice, inequity, or unfairness you have observed or experienced that resulted from a federal anti-trafficking activity (please specify the relevant policy, practice, or program). Do you have recommendations for how this should be corrected?

3. How have federal anti-trafficking policies, programs, and systems created barriers to advancing racial equity, and how might the executive branch address and help reduce these barriers?

4. What promising approaches or efforts have been successful in embedding a racial equity lens in anti-trafficking work? What examples and/or data are available to support this?

5. What can SPOG agencies individually and the SPOG collectively do to advance racial equity and integrate it into federal anti-trafficking work domestically and internationally—particularly in the areas of investigation and prosecution, victim services (commenters may specify specific populations, such as people of color, noncitizens, LGBTQ+ persons, etc.), grantmaking, public procurement, supply chains, public awareness and outreach, research and data collection, and any other area the submitter feels is important to note?

6. What tools, approaches, or lessons have been applied in other countries or in U.S. state, territorial, tribal, and local jurisdictions to address the intersection between racial, ethnic, or cultural discrimination and human trafficking? Could these tools, approaches, or lessons applied by other authorities be helpful to the United States to further racial equity?

7. What are promising practices or strategies for how anti-trafficking policies and programs can address the compounded barriers at the intersections of systemic racism and other forms of discrimination, such as discrimination against persons with disabilities, LGBTQ+ persons, and women and girls?

8. Meaningful stakeholder engagement includes collective problem-solving and decision-making, equitable partnerships, and collaboration that fosters a sharing of power. What processes or approaches should SPOG agencies have in place to proactively and meaningfully engage individuals with lived experience of human trafficking and communities that are most directly impacted by human trafficking? What are tools and best practices that SPOG agencies should consider to embed racial equity practices into community and stakeholder engagement?

Zachary A. Parker,

Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2022–02537 Filed 2–7–22; 8:45 am]

BILLING CODE 4710–11–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m. CT on February 10, 2022.

PLACE: Knicely Conference Center, 2355 Nashville Road, Bowling Green, Kentucky.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Meeting No. 22–01

The TVA Board of Directors will hold a public meeting on February 10, 2022, at the Knicely Conference Center, 2355 Nashville Road, Bowling Green, Kentucky, on the campus of Western Kentucky University. The meeting will be called to order at 9:30 a.m. CT to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

On February 9, at the Knicely Conference Center, the public may comment on any agenda item or subject at a board-hosted public listening session which begins at 2 p.m. CT and will last until 4 p.m. Preregistration is required to address the Board.

Agenda

1. Approval of minutes of the November 10, 2021 Board Meeting
2. Report of the Audit, Finance, Risk, and Cybersecurity Committee
3. Report of the People and Governance Committee
   A. Real Property Board Practice
   B. Updating Capital Projects Approvals Board Practice
4. Report of the External Stakeholders and Regulation Committee
   A. Federal Advisory Committees Charter Renewals
   B. Authorization for Economic Development Contracts and Programs
5. Report of the Operations and Nuclear Oversight Committee
6. Information Items
   A. Advanced Reactor Program
   B. Board Less-Than-Quorum
   C. Severe Weather Response
   D. New Johnsonville Aeroderivative Project Amendment
7. Report from President and CEO

CONTACT PERSON FOR MORE INFORMATION: For more information: Please call Jim

Hopson, TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: February 3, 2022.

Edward C. Meade,

Agency Liaison.

[FR Doc. 2022–02712 Filed 2–4–22; 4:15 pm]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Rescission of Finding of No Significant Impact for the I–5 Rose Quarter Improvement Project in Portland, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is issuing this notice to advise the public that it has rescinded the Finding of No Significant Impact (FONSI) for the I–5 Rose Quarter Improvement Project, a proposed highway project on Interstate 5 in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Emily Cline, Environmental Program Manager, FHWA Oregon Division Office, 530 Center St. NE, Salem, OR 97301, Office Hours: 7:30 a.m. to 4:00 p.m., Office Phone: 503–316–2547, Email: *Emily.cline@dot.gov.* You may also contact Megan Channell, Rose Quarter Project Director, ODOT Region 1, 123 NW Flanders St., Portland, OR 97209, Office Phone: 971–233–6510, Office Hours, 8:00 a.m.–5:00 p.m., Email: *Megan.Channell@odot.state.or.us.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

Background

On November 6, 2020, at 85 FR 71136, FHWA advised the public that it had prepared a Revised Environmental Assessment and a FONSI for the I–5 Rose Quarter Improvement Project. The proposed improvements would extend existing auxiliary lanes in the northbound and southbound directions to improve safety and operations on Interstate-5 (I–5) between Interstate 84 and Interstate 405, and make improvements to local streets to improve multimodal connections over I–5. Changes made to the project after the FONSI was issued necessitate vacating that finding and conducting additional analysis to account for altered environmental impacts before proceeding. A new decision under the National Environmental Policy Act and any other necessary Federal environmental determinations will be issued consistent with this additional analysis.

Phillip A. Ditzler,

Division Administrator, Federal Highway Administration.

[FR Doc. 2022–02528 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–1999–6156; FMCSA–2001–9561; FMCSA–2002–12844; FMCSA–2003–16241; FMCSA–2005–20560; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2006–24783; FMCSA–2006–26653; FMCSA–2007–0017; FMCSA–2007–27333; FMCSA–2007–27897; FMCSA–2008–0398; FMCSA–2009–0121; FMCSA–2009–0303; FMCSA- 2010–0187; FMCSA–2010–0354; FMCSA–2011–0010; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2011–0142; FMCSA–2011–0189; FMCSA–2011–0298; FMCSA–2011–0299; FMCSA–2011–0366; FMCSA–2011–26690; FMCSA–2013–0021; FMCSA–2013–0022; FMCSA–2013–0025; FMCSA–2013–0027; FMCSA–2013–0029; FMCSA–2013–0165; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2014–0003; FMCSA–2014–0007; FMCSA–2014–0296; FMCSA–2014–0297; FMCSA–2014–0299; FMCSA–2015–0048; FMCSA–2015–0049; FMCSA–2015–0053; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0344; FMCSA–2016–0213; FMCSA–2016–0214; FMCSA–2017–0014; FMCSA–2017–0018; FMCSA–2017–0020; FMCSA–2017–0022; FMCSA–2017–0023; FMCSA–2017–0024; FMCSA–2018–0209; FMCSA–2019–0004; FMCSA–2019–0006; FMCSA–2019–0013; FMCSA–2019–0014; FMCSA–2019–0015; FMCSA–2019–0019; FMCSA–2020–0018]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 109 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov,* insert the docket number, FMCSA–1998–4334, FMCSA–1999–5578, FMCSA–1999–6156, FMCSA–2001–9561, FMCSA–2002–12844, FMCSA–2003–16241, FMCSA–2005–20560, FMCSA–2005–22194, FMCSA–2005–22727, FMCSA–2006–24783, FMCSA–2006–26653, FMCSA–2007–0017, FMCSA–2007–27333, FMCSA–2007–27897, FMCSA–2008–0398, FMCSA–2009–0121, FMCSA–2009–0303, FMCSA- 2010–0187, FMCSA–2010–0354, FMCSA–2011–0010, FMCSA–2011–0024, FMCSA–2011–0057, FMCSA–2011–0092, FMCSA–2011–0102, FMCSA–2011–0142, FMCSA–2011–0189, FMCSA–2011–0298, FMCSA–2011–0299, FMCSA–2011–0366, FMCSA–2011–26690, FMCSA–2013–0021, FMCSA–2013–0022, FMCSA–2013–0025, FMCSA–2013–0027, FMCSA–2013–0029, FMCSA–2013–0165, FMCSA–2013–0167, FMCSA–2013–0168, FMCSA–2013–0169, FMCSA–2013–0170, FMCSA–2014–0003, FMCSA–2014–0007, FMCSA–2014–0296, FMCSA–2014–0297, FMCSA–2014–0299, FMCSA–2015–0048, FMCSA–2015–0049, FMCSA–2015–0053, FMCSA–2015–0055, FMCSA–2015–0056, FMCSA–2015–0070, FMCSA–2015–0072, FMCSA–2015–0344, FMCSA–2016–0213, FMCSA–2016–

0214, FMCSA–2017–0014, FMCSA–2017–0018, FMCSA–2017–0020, FMCSA–2017–0022, FMCSA–2017–0023, FMCSA–2017–0024, FMCSA–2018–0209, FMCSA–2019–0004, FMCSA–2019–0006, FMCSA–2019–0013, FMCSA–2019–0014, FMCSA–2019–0015, FMCSA–2019–0019, or FMCSA–2020–0018 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On December 10, 2021, FMCSA published a notice announcing its decision to renew exemptions for 109 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (86 FR 70571). The public comment period ended on January 10, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the 109 renewal exemption applications and comments received, FMCSA confirms its decision to exempt the following drivers from the vision requirement in § 391.41(b)(10).

As of January 3, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 87 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (63 FR 66226; 64 FR 27027; 64 FR 54948; 66 FR 30502; 67 FR 68719; 68 FR 61857; 70 FR 17504; 70 FR 57353; 71 FR 32183; 72 FR 8417; 72 FR 12666; 72 FR 39879; 74 FR 7097; 74 FR 26461; 75 FR 47883; 75 FR 72863; 76 FR 9856; 76 FR 17481; 76 FR 18824; 76 FR 25766; 76 FR 29022; 76 FR 49528; 76 FR 55465; 76 FR 64169; 77 FR 17117; 78 FR 10251; 78 FR 12815; 78 FR 20376; 78 FR 24798; 78 FR 34143; 78 FR 47818; 78 FR 63302; 78 FR 64274; 78 FR 67454; 79 FR 14571; 79 FR 38659; 79 FR 58856; 79 FR 63211; 79 FR 73397; 80 FR 26139; 80 FR 31636; 80 FR 40122; 80 FR 44188; 80 FR 59230; 80 FR 67476; 80 FR 70060; 82 FR 12678; 82 FR 13187; 82 FR 17736; 82 FR 24430; 82 FR 34564; 82 FR 37504; 82 FR 43647; 84 FR 2323; 84 FR 5550; 84 FR 11859; 84 FR 46088; 84 FR 47050; 84 FR 52160):

Thomas E. Adams (IN)
William D. Amberman (PA)
Lawrence A. Angle (MO)
Robert F. Anneheim (NC)
Luis A. Bejarano (AZ)
Eugenio V. Bermudez (MA)
Johnny A. Bingham (NC)
Russell A. Bolduc (CT)
Jason W. Bowers (OR)
Kenneth E. Bross (MO)
Rickie L. Brown (MS)
Stacey J. Buckingham (ID)
Robert M. Cassell, Jr. (NC)
Julian Collins (GA)
Duane C. Conway (NV)
Andrew R. Cook (VT)
Thomas R. Crocker (SC)
Thomas W. Crouch (IN)
Jeffrey S. Daniel (VA)
John J. Davis (SC)
Walter C. Dean, Sr. (AL)
Gerald S. Dennis (IA)
Brad M. Donald (MI)
Dennis C. Edler (PA)
Denise M. Engle (GA)
Eric Esplin (UT)
Tomie L. Estes (MO)
Steven L. Forristall (WI)
John A. Gartner (MN)
William K. Gullett (KY)
Ahmed M. Gutale (MN)
Michael D. Halferty (IA)
John R. Harper (KS)
Steven E. Hayes (IN)
Richard Healy (MD)
Dustin K. Heimbach (PA)
Dennis H. Heller (KS)
Philip E. Henderson (MO)
Shane M. Holum (WA)
Michael D. Judy (KS)
Jeffrey A. Keefer (OH)
Purvis W. Kills Enemy At Night (SD)
Jay D. Labrum (UT)
Edward H. Lampe (OR)
Charles H. Lefew (VA)
Stephen C. Linardos (FL)
Daniel C. Linares (CA)
Lonnie Lomax, Jr. (IL)
Darrel R. Martin (MD)
Frederick L. McCurry (VA)
Keith W. McNabb (ID)
Dionicio Mendoza (TX)
Ronald S. Milkowski (NJ)
Pablo R. Murillo (TX)
Timothy W. Nappier (MI)
Tobias G. Olsen (ND)
James A. Parker (PA)
John R. Price (AR)
Kenneth A. Reddick (PA)
Francis D. Reginald (NJ)
Steven P. Richter (MN)
Danilo A. Rivera (MD)
Michael J. Robinson (WV)
Esequiel Rodriguez, Jr. (TX)
Jonathan C. Rollings (IA)
James R. Rupert (CA)
Craig R. Saari (MN)
Joaquin A. Sandoval (OR)
Eugene D. Self, Jr. (NC)
Michael L. Sherum (AL)
Levi A. Shetler (OH)
David W. Skillman (WA)
Boyd D. Stamey (NC)
Robert D. Steele (WA)
Neil G. Sturges (NY)
Jeffrey R. Swett (SC)
James B. Taflinger, Sr. (VA)
Lee T. Taylor (FL)
Steven L. Thomas (IN)
Dale A. Torkelson (WI)
Herman D. Truewell (FL)
Tristan A. Twito (TX)
Jeffrey Waterbury (NY)
Daniel A. Wescott (CO)
Gregory A. Woodward (OR)
Walter M. Yohn, Jr. (AL)
William E. Zezulka (MN)

The drivers were included in docket numbers FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–1999–6156; FMCSA–2001–9561; FMCSA–2002–12844; FMCSA–2003–16241; FMCSA–2005–20560; FMCSA–2005–22194; FMCSA–2006–24783; FMCSA–2006–26653; FMCSA–2007–27333; FMCSA–2007–27897; FMCSA–2008–0398;

FMCSA–2009–0121; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2011–0010; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2011–0142; FMCSA–2011–0189; FMCSA–2011–0366; FMCSA–2011–26690; FMCSA–2013–0021; FMCSA–2013–0022; FMCSA–2013–0025; FMCSA–2013–0027; FMCSA–2013–0029; FMCSA–2013–0165; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2014–0003; FMCSA–2014–0007; FMCSA–2014–0296; FMCSA–2014–0297; FMCSA–2014–0299; FMCSA–2015–0048; FMCSA–2015–0049; FMCSA–2015–0053; FMCSA–2015–0055; FMCSA–2015–0056; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2016–0213; FMCSA–2016–0214; FMCSA–2017–0014; FMCSA–2017–0018; FMCSA–2017–0020; FMCSA–2017–0022; FMCSA–2017–0023; FMCSA–2018–0209; FMCSA–2019–0004; FMCSA–2019–0006; FMCSA–2019–0013; FMCSA–2019–0014; and FMCSA–2019–0015. Their exemptions were applicable as of January 3, 2022 and will expire on January 3, 2024.

As of January 5, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (76 FR 70213):

George G. Ulferts, Jr. (IA)

The driver was included in docket number FMCSA–2011–0298. The exemption was applicable as of January 5, 2022 and will expire on January 5, 2024.

As of January 8, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (72 FR 67340; 80 FR 76345):

Wayne A. Burnett (NC)
Thomas E. Gross (PA)
Steven G. Hall (NC)
Jason Huddleston (TX)

The drivers were included in docket numbers FMCSA–2007–0017 and FMCSA–2015–0344. Their exemptions were applicable as of January 8, 2022 and will expire on January 8, 2024.

As of January 11, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (82 FR 58262):

Christopher T. Peevyhouse (TN)

The driver was included in docket number FMCSA–2017–0024. The exemption was applicable as of January 11, 2022 and will expire on January 11, 2024.

As of January 15, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (78 FR 64271):

Glenn H. Lewis (OH); and Roy A. Whitaker (TX)

The drivers were included in docket number FMCSA–2013–0167. Their exemptions were applicable as of January 15, 2022 and will expire on January 15, 2024.

As of January 22, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (84 FR 69814):

Derrick A. Robinson (AL)

The driver was included in docket number FMCSA–2020–0018. The exemption was applicable as of January 22, 2022 and will expire on January 22, 2024.

As of January 23, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (78 FR 67454):

Leonard A. Martin (NV)

The driver was included in docket number FMCSA–2013–0170. The exemption was applicable as of January 23, 2022 and will expire on January 23, 2024.

As of January 24, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (76 FR 73769):

Mark A. Ferris (IA)

The driver was included in docket number FMCSA–2011–0299. The exemption was applicable as of January 24, 2022 and will expire on January 24, 2024.

As of January 27, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (70 FR 71884):

Jason L. Light (ID)

The driver was included in docket number FMCSA–2005–22727. The exemption is applicable as of January 27, 2022 and will expire on January 27, 2024.

As of January 28, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (74 FR 60022):

Donald E. Halvorson (NM); and Phillip J. Locke (CO)

The drivers were included in docket number FMCSA–2009–0303. Their exemptions were applicable as of January 28, 2022 and will expire on January 28, 2024.

As of January 29, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (78 FR 67454):

Calvin J. Barbour (NY)
Jamie D. Daniels (IA)
Randy G. Kinney (IL)
Hector Marquez (TX)

The drivers were included in docket number FMCSA–2013–0170. Their exemptions were applicable as of January 29, 2022 and will expire on January 29, 2024.

As of January 30, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (84 FR 72114):

Brian K. Boyd (TX)
Vincent M. Najera (CA)
Jameson A. Otto (TX)
Jose M. Vasquez (NY)

The drivers were included in docket number FMCSA–2019–0019. Their exemptions were applicable as of January 30, 2022 and will expire on January 30, 2024.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals

and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–02632 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0015]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 13 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on January 11, 2022. The exemptions expire on January 11, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov,* insert the docket number, FMCSA–2022–0015, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On December 10, 2021, FMCSA published a notice announcing receipt of applications from 13 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (86 FR 70575). The public comment period ended on January 10, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the December 10, 2021, **Federal Register** notice (86 FR 70575) and will not be repeated here.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 13 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, central scotoma, enucleation, glaucoma, ischemic optic neuropathy, macular pucker, prosthetic, retinal detachment, and retinal scarring. In most cases, their eye conditions did not develop recently. Eight of the applicants were either born with their vision impairments or have had them since childhood. The five individuals that developed their vision conditions as adults have had them for a range of 5 to 16 years. Although each applicant has one eye that does not meet the vision requirement in § 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and

driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 45 years. In the past 3 years, no drivers were involved in crashes, and no drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in § 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in § 391.41(b)(10) and (b) by a certified medical examiner (ME) who attests that the individual is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 13 exemption applications, FMCSA exempts the following drivers from the vision requirement, § 391.41(b)(10), subject to the requirements cited above:

Jacob J. Bell (CO)
Robert F. Fullwood (PA)
Glen T. Garrabrant (NJ)
Lloyd M. Hicks (AR)
Kyle M. Innella (PA)
Tyraine Jackson (VA)
Maris I. Kretsu (GA)
Ellis R. Martin (MD)
Jerred R. Murray (NY)
Moises Perez (IL)
Jake Quillen (TN)
David S. Rosen (NJ)
Robert C. Rucker (TN)

In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–02622 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0058; FMCSA–2018–0136; FMCSA–2018–0138; FMCSA–2018–0139; FMCSA–2019–0109; FMCSA–2019–0110]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 23 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on December 26, 2021. The exemptions expire on December 26, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2017–0058, FMCSA–2018–0136, FMCSA–2018–0138, FMCSA–2018–0139, FMCSA–2019–0109, or FMCSA–2019–0110 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On December 29, 2021, FMCSA published a notice announcing its decision to renew exemptions for 23 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (86 FR 74213). The public comment period ended on January 28, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not

less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 23 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41 (b)(11).

As of December 26, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 23 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (86 FR 74213):

Mario Alvarado (CA)
Kasseth Andrews (MA)
Denis Ayers (MD)
Joseph Bence (OH)
Daryl A. Broker (MN)
Justin Brooks (WA)
Christa Butner (NC)
William Darnell (AZ)
Travis Davisson (IA)
Erik De Leon (TX)
Mitchell Estill (MO)
Paul Hoover (PA)
Amy Ivins (NE)
James Johnson (MN)
Keith Kenyon (WI)
Nicholas Kulasa (IL)
John Martikainen (CT)
John Silvers (NY)
Michael Swetnam (TX)
Mark Tabangcora (CA)
Yvon Victor (NJ)
Jeremy Williams (CA)
Joseph Williams (MD)

The drivers were included in docket number FMCSA–2017–0058, FMCSA–2018–0136, FMCSA–2018–0138, FMCSA–2018–0139, FMCSA–2019–0109, or FMCSA–2019–0110. Their exemptions were applicable as of December 26, 2021 and will expire on December 26, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–02618 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25854; FMCSA–2010–0203; FMCSA–2013–0106; FMCSA–2013–0107; FMCSA–2013–0108; FMCSA–2015–0117; FMCSA–2015–0119; FMCSA–2017–0178; FMCSA–2017–0181; FMCSA–2017–0251; FMCSA–2018–0052]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 14 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2006–25854, FMCSA–2010–0203, FMCSA–2013–0106, FMCSA–2013–0107, FMCSA–2013–0108, FMCSA–2015–0117, FMCSA–2015–0119, FMCSA–2017–0178, FMCSA–2017–0181, FMCSA–2017–0251, or FMCSA–2018–0052 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On December 29, 2021, FMCSA published a notice announcing its decision to renew exemptions for 14 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (86 FR 74211). The public comment period ended on January 28, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical

history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the 14 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of December and are discussed below.

As of December 16, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (86 FR 74211):

Eric Barnwell (MI)
Christopher Bird (OH)
Gary Clark (KY)
Todd Davis (WI)
Scott DeJarnette (KY)
Gary J. Gress (PA)
Curtis Alan Hartman (MD)
Wendell F. Headley (MO)
Jason Kirkham (WI)
Dannie Kuck (MT)
Robert Spencer (FL)

The drivers were included in docket number FMCSA–2010–0203, FMCSA–2013–0106, FMCSA–2013–0107, FMCSA–2015–0117, FMCSA–2015–0119, FMCSA–2017–0178, FMCSA–2017–0181, FMCSA–2017–0251, or FMCSA–2018–0052. Their exemptions were applicable as of December 16, 2021 and will expire on December 16, 2023.

As of December 23, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (86 FR 74211):

Gary Freeman (WI)
Aaron Gillette (SD)
David Kestner (VA)

The drivers were included in docket number FMCSA–2006–25854 or FMCSA–2013–0108. Their exemptions were applicable as of December 23, 2021 and will expire on December 23, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–02629 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–EX–P

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT–NHTSA–2021–0081]

National Emergency Medical Services Advisory Council Notice of Public Meeting

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC).

DATES: The meeting will be virtual. It will be held March 2–3, 2022, from 9:00 a.m. to 5:00 p.m. ET. Pre-registration is required to attend this meeting. A link permitting access to the meeting will be distributed to registrants within 24 hours of the meeting start time. If you wish to speak during the meeting, you must submit a written copy of your remarks to DOT by February 24, 2022.

Other scheduled NEMSAC meeting dates in 2022 session include May 11 and 12; August 10 and 11; and November 2 and 3. Notifications containing specific details for each meeting will be published in the **Federal Register** no later than 30 days prior to the respective meeting dates.

ADDRESSES: This meeting will be held virtually. General information about the Council is available on the NEMSAC internet website at *www.ems.gov.* The registration portal and meeting agenda will be available on the NEMSAC internet website at *www.ems.gov* at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Clary Mole, EMS Specialist, National Highway Traffic Safety Administration, U.S. Department of Transportation is available by phone at (202) 868–3275 or by email at *Clary.Mole@dot.gov.* Any committee-related requests should tbe sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The NEMSAC was established pursuant to Section 31108 of the Moving Ahead for Progress in the 21st Century (MAP–21) Act of 2012, under the Federal Advisory Committee Act. The purpose of NEMSAC is to serve as a nationally recognized council of emergency medical services (EMS) representatives to provide advice and consult with:

a. The Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to EMS issues; and

b. The Secretary of Transportation on matters relating to EMS issues affecting DOT.

The NEMSAC provides an important national forum for the non-Federal deliberation of national EMS issues and serves as a platform for advice on DOT's national EMS activities. NEMSAC also provides advice and recommendations to the FICEMS. NEMSAC is authorized under Section 31108 of the MAP–21 Act of 2012, codified at 42 U.S.C. 300d–4.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Updates from Federal Emergency Services Liaisons
- Updates on the FICEMS Initiatives
- Updates on NHTSA Initiatives
- Subcommittee Reports

III. Public Participation

This meeting will be open to the public. NHTSA is committed to provide equal access to this meeting for all program participants. Persons with disabilities in need of an accommodation should send your request to the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than February 24, 2022. A sign language interpreter will be provided, and closed captioning services will be provided for this meeting through the WebEx virtual meeting platform.

A period of time will be allotted for comments from members of the public

joining the meeting. Members of the public may present questions and comments to the Council using the live chat feature available during the meeting. Members of the public may also submit materials, questions, and comments in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Members of the public wishing to reserve time to speak directly to the Council during the meeting must submit a request. The request must include the name, contact information (address, phone number, and email address), and organizational affiliation of individual wishing to address NEMSAC; it must also include a written copy of prepared remarks; and it must be forwarded to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than February 24, 2022.

All advance submissions will be reviewed by the Council Chairperson and Designated Federal Officer. If approved, advance submissions shall be circulated to NEMSAC representatives for review prior to the meeting. All advance submissions are subject to becoming part of the official record of the meeting.

Authority: 42 U.S.C. 300d–4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–02589 Filed 2–7–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Disposition of Treasury Securities Belonging to a Decedent's Estate Being Settled Without Administration

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Disposition of Treasury Securities Belonging to a Decedent's Estate Being Settled Without Administration.

DATES: Written comments should be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disposition of Treasury Securities Belonging to a Decedent's Estate Being Settled Without Administration.

OMB Number: 1530–0055.

Form Number: FS Form 5336.

Abstract: The information is collected from a voluntary representative of a decedent's estate to support a request for disposition of United States Treasury Securities and/or related payments in the event that the estate is not being administered.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 25,350.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 12,675.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 2, 2022.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2022–02519 Filed 2–7–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Application for Issue of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Application For Issue Of United States Mortgage Guaranty Insurance Company Tax And Loss Bonds.

DATES: Written comments should be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application For Issue Of United States Mortgage Guaranty Insurance Company Tax And Loss Bonds.

OMB Number: 1530–0052.

Form Number: FS Form 3871.

Abstract: The information collected is necessary to establish and maintain Tax and Loss Bond accounts.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 33.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 8.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the

collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 2, 2022.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2022–02518 Filed 2–7–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Application by Voluntary Guardian of Incapacitated Owner of United States Savings Bonds or Savings Notes

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Application by Voluntary Guardian of Incapacitated Owner of United States Savings Bonds or Savings Notes.

DATES: Written comments should be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application by Voluntary Guardian of Incapacitated Owner of United States Savings Bonds or Savings Notes.

OMB Number: 1530–0031.

Form Number: FS Form 2513.

Abstract: The information is requested to establish the right of a voluntary guardian to conduct transactions on behalf of a mentally incapacitated bond or note owner.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 333.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 2, 2022.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2022–02517 Filed 2–7–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Claims Against the United States for Amounts Due in the Case of a Deceased Creditor

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning Claims Against the United States for Amounts Due in the Case of a Deceased Creditor.

DATES: Written comments should be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Claims Against the United States for Amounts Due in the Case of a Deceased Creditor.

OMB Number: 1530–0004.

Form Number: SF–1055.

Abstract: The information is required to determine who is entitled to funds of a deceased Postal Savings depositor or deceased award holder. The form properly completed with supporting documents enables the Judgement Fund Branch to decide who is legally entitled to payment.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 400.

Estimated Time per Respondent: 27 minutes.

Estimated Total Annual Burden Hours: 180.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 2, 2022.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2022–02515 Filed 2–7–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8693

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Low-Income Housing Credit Disposition Bond.

DATES: Written comments should be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include [*OMB Control num. or Title*] in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Low-Income Housing Credit Disposition Bond.

OMB Number: 1545–1029.

Form Number: 8693.

Abstract: Form 8693 is needed per IRC section 42(j)(6) to post bond or establish a Treasury Direct Account and waive the recapture requirements under section 42(j) for certain disposition of a building on which the low-income housing credit was claimed. Internal Revenue regulations section 301.7101–1 requires that the posting of a bond must be done on the appropriate form as determined by the Internal Revenue Service.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other-for-profit organizations and individuals.

Estimated Number of Respondents: 667.

Estimated Time per Respondent: 5 hours, 23 minutes.

Estimated Total Annual Burden Hours: 3,589.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 1, 2022.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–02585 Filed 2–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–8CE

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Notice of Expatriation and Waiver of Treaty Benefits.

DATES: Written comments should be received on or before April 11, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include [*OMB Control num. or Title*] in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice of Expatriation and Waiver of Treaty Benefits.

OMB Number: 1545–2138.

Form Number: W–8CE.

Abstract: Information used by taxpayers to notify payer of expatriation so that proper tax treatments is applied by payer. The taxpayer is required to file this form to obtain any benefit accorded by the status.

Current Actions: There are no changes being made to theform at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 5 hours, 41 minutes.

Estimated Total Annual Burden Hours: 2,840.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the

burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 1, 2022.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–02586 Filed 2–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the Health Services Research and Development Service Scientific Merit Review Board will be held March 10, 2022, via WebEx. The meeting will be held between noon and 1:30 p.m. EST. The meeting will be partially closed to the public from 12:15–1:00 p.m. EST for the discussion, examination and reference to the research applications and scientific review. Discussions will involve reference to staff and consultant critiques of research proposals. Discussions will deal with scientific merit of each proposal and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. As provided by Public Law 92–463 subsection 10(d), as amended by Public Law 94–409, closing the committee meeting is in accordance with 5 U.S.C. 552b(c) (6) and (9)(B).

The objective of the Board is to provide for the fair and equitable selection of the most meritorious research projects for support by VA research funds and to offer advice for research program officials on program priorities and policies. The ultimate objective of the Board is to ensure the high quality and mission relevance of VA's legislatively mandated Health Services Research and Development program.

Board members advise the Director, Health Services Research and Development Service and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance and the protection of human subjects of Health Services Research and Development proposals. The Board does not consider grants, contracts or other forms of extramural research.

Members of the public who wish to attend the open portion of the teleconference session from 12:00–12:15 p.m. EST may join by dialing the WebEx USA Toll-free Number 1–833–558–0712 and entering the meeting number (access code): 2763 474 0197.

Written comments from the public must be sent to Naomi Tomoyasu, Ph.D., Designated Federal Officer, Health Services Research and Development Service, Department of Veterans Affairs (14RDH), 810 Vermont Avenue NW, Washington, DC 20420, or to *Naomi.tomoyasu@va.gov* prior to the meeting. Those who plan to attend the open portion of the meeting must contact Dr. Tomoyasu at least five days before the meeting. For further information, please call Dr. Tomoyasu at 202–443–5739.

Dated: February 3, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–02631 Filed 2–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Scientific Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Cooperative Studies Scientific Evaluation Committee will hold a meeting on March 10, 2022 by Zoom. The meeting will begin at 8:30 a.m. and end at 3:00 p.m. EST.

The Committee provides expert advice on VA cooperative studies, multi-site clinical research activities and policies related to conducting and managing these efforts. The session will be open to the public for approximately 30 minutes at the start of the meeting for the discussion of administrative matters and the general status of the program. The remaining portion of the meeting will be closed to the public for the Committee's review, discussion and evaluation of research and development applications.

During the closed portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. In addition, the premature disclosure of potential research activities prior to them being approved could frustrate the implementation of approved research activities. As provided by section 10(d) of Public Law 92–463, as amended, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (c)(9)(B).

The Committee will not accept oral comments from the public for the open portion of the meeting. Members of the public who wish to attend the open teleconference should call 872–701–0185, conference ID 905 990 401#. Those who plan to attend or wish additional information should contact David Burnaska, Program Manager, Cooperative Studies Program (14RD), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at 202–443–5693 or *david.burnaska@va.gov.* Those wishing to submit written comments may send them to Mr. Burnaska at the same address and email.

Dated: February 3, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–02628 Filed 2–7–22; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (5 U.S.C. App. 2), that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board (hereinafter the Board) will be held on Wednesday, March 9, 2022, via Webex. The meeting will be held between 1:00–1:30 p.m. EST. The meeting will be partially closed to the public from 1:10–1:30 p.m. EST for the discussion, examination and reference to the research applications and scientific review.

Discussions will involve reference to staff and consultant critiques of research

proposals. Discussions will also deal with scientific merit of each proposal and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. As provided by Public Law 92–463 subsection 10(d), as amended by Public Law 94–409, closing the Board meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

The objective of the Board is to provide for the fair and equitable selection of the most meritorious research projects for support by VA research funds and to offer advice for research program officials on program priorities and policies. The ultimate objective of the Board is to ensure that the VA Rehabilitation Research and Development program promotes functional independence and improves the quality of life for impaired and disabled Veterans.

Board members advise the Director, Rehabilitation Research and Development Service and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human and animal subjects of Rehabilitation Research and Development proposals. The Board does not consider grants, contracts or other forms of extramural research.

Members of the public who wish to attend the open portion of the Webex session from 1:00–1:10 p.m. EST may join by dialing the Webex USA Toll-free Number 1–833–558–0712 and entering the meeting number (access code): 2760 334 6447.

Written comments from the public must be sent prior to the meeting to Tiffany Asqueri, Designated Federal Officer, Rehabilitation Research and Development Service, Department of Veterans Affairs (14RDR), 810 Vermont Avenue NW, Washington, DC 20420, or to *Tiffany.Asqueri@va.gov.* Those who plan to attend the open portion of the meeting must contact Mrs. Asqueri at least five (5) days before the meeting. For further information, please call Mrs. Asqueri at 202–443–5757.

Dated: February 3, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–02630 Filed 2–7–22; 8:45 am]

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FEDERAL REGISTER

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Part II

Securities and Exchange Commission

17 CFR Parts 270 and 274

Money Market Fund Reforms; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 274

[Release No. IC–34441; File No. S7–22–21]

RIN 3235–AM80

Money Market Fund Reforms

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is proposing amendments to certain rules that govern money market funds under the Investment Company Act of 1940. The proposed amendments are designed to improve the resilience and transparency of money market funds. The proposal would remove the liquidity fee and redemption gate provisions in the existing rule, which would eliminate an incentive for preemptive redemptions from certain money market funds and could encourage funds to more effectively use their existing liquidity buffers in times of stress. The proposal would also require institutional prime and institutional tax-exempt money market funds to implement swing pricing policies and procedures to require redeeming investors to bear the liquidity costs of their decisions to redeem. The Commission is also proposing to increase the daily liquid asset and weekly liquid asset minimum liquidity requirements, to 25% and 50% respectively, to provide a more substantial buffer in the event of rapid redemptions. The proposal would amend certain reporting requirements on Forms N–MFP and N–CR to improve the availability of information about money market funds, as well as make certain conforming changes to Form N–1A to reflect our proposed changes to the regulatory framework for these funds. In addition, the Commission is proposing rule amendments to address how money market funds with stable net asset values should handle a negative interest rate environment. Finally, the Commission is proposing rule amendments to specify how funds must calculate weighted average maturity and weighted average life.

DATES: Comments should be received on or before April 11, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*).

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–22–21. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's website (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's public reference room. 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.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Blair Burnett, David Driscoll, Adam Lovell, or James Maclean, Senior Counsels; Angela Mokodean, Branch Chief; or Brian Johnson, Assistant Director at (202) 551–6792, Investment Company Regulation Office; Keri Riemer, Senior Counsel; Penelope Saltzman, Senior Special Counsel; or Thoreau Bartmann, Assistant Director, Chief Counsel's Office, (202) 551–6825; Viktoria Baklanova, Analytics Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for public comment amendments to 17 CFR 270.2a–7 (rule 2a–7) and 17 CFR 270.31a–2 (rule 31a–2) under the Investment Company Act of 1940,[1] Form N–1A under the Investment Company Act and the Securities Act,[2] and Forms N–MFP and N–CR under the Investment Company Act.

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[1] 15 U.S.C. 80a *et seq.*

[2] 15 U.S.C. 77a *et seq.*

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I. Introduction

Money market funds are a type of mutual fund registered under the Investment Company Act of 1940 (''Act'') and regulated pursuant to rule 2a–7 under the Act.[3] Money market funds are managed with the goal of providing principal stability by investing in high-quality, short-term debt securities, such as Treasury bills, repurchase agreements, or commercial paper, and whose value does not fluctuate significantly in normal market conditions. Money market fund investors receive dividends that reflect prevailing short-term interest rates and have access to daily liquidity, as money market fund shares are redeemable on demand. The combination of limited principal volatility, diversification of portfolio securities, payment of short-term yields, and liquidity has made money market funds popular cash management vehicles for both retail and institutional investors. Money market funds also provide an important source of short-term financing for businesses, banks, and Federal, state, municipal, and Tribal governments.

In March 2020, in connection with an economic shock from the onset of the COVID–19 pandemic, certain types of money market funds had significant outflows as investors sought to preserve liquidity.[4] We are proposing to amend rule 2a–7 to remove provisions in the rule that appear to have contributed to investors' incentives to redeem from certain funds during this period. For the category of funds that experienced the heaviest outflows in March 2020 and in prior periods of market stress, we are proposing a new swing pricing requirement that is designed to mitigate the dilution and investor harm that can occur today when other investors redeem—and remove liquidity—from these funds, particularly when certain markets in which the funds invest are under stress and effectively illiquid. We are also proposing to increase liquidity requirements to better equip money market funds to manage significant and rapid investor redemptions. In addition to these reforms, we are proposing changes to improve transparency and facilitate Commission monitoring of money market funds. We also propose to clarify how certain money market funds would operate if interest rates became negative. Finally, we propose to specify how funds must calculate weighted average maturity and weighted average life.[5]

A. Types of Money Market Funds and Existing Regulatory Framework

Different types of money market funds exist to meet differing investor needs. ''Prime money market funds'' hold a variety of taxable short-term obligations issued by corporations and banks, as well as repurchase agreements and asset-backed commercial paper.[6] ''Government money market funds,'' which are currently the largest category of money market fund, almost exclusively hold obligations of the U.S. Government, including obligations of the U.S. Treasury and Federal agencies and instrumentalities, as well as repurchase agreements collateralized by government securities.[7] Compared to prime funds, government money market funds generally offer greater safety of principal but historically have paid lower yields. ''Tax-exempt money market funds'' (or ''municipal money market funds'') primarily hold obligations of state and local governments and their instrumentalities, and pay interest that is generally exempt from Federal income tax for individual taxpayers.[8] Within the prime and tax-exempt money market fund categories, some funds are ''retail'' funds and others are ''institutional'' funds. Retail money market funds are held only by natural persons, and institutional funds can be held by a wider range of investors, such as corporations, small businesses, and retirement plans.[9]

To some extent, different types of money market funds are subject to different requirements under rule 2a–7. One primary example is a fund's approach to valuation and pricing. Government and retail money market funds can rely on valuation and pricing techniques that generally allow them to sell and redeem shares at a stable share price, typically $1.00, without regard to small variations in the value of the securities in their portfolios.[10] If the fund's stable share price and market-based value per share deviate by more than one-half of 1%, the fund's board may determine to adjust the fund's share price below $1.00, which is also colloquially referred to as ''breaking the buck.''[11] Institutional prime and institutional tax-exempt money market funds, however, are required to use a

[3] Money market funds are also sometimes called ''money market mutual funds'' or ''money funds.''

[4] *See infra* Section I.B (discussing these events in more detail).

[5] We have consulted and coordinated with the Consumer Financial Protection Bureau regarding this proposed rulemaking in accordance with section 1027(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

[6] Commission staff regularly publish comprehensive data regarding money market funds on the Commission's website, *available at https://www.sec.gov/divisions/investment/mmf-statistics.shtml.* This data includes information about the monthly holdings of prime money market funds by type of security.

[7] Some government money market funds generally invest at least 80% of their assets in U.S. Treasury obligations or repurchase agreements collateralized by U.S. Treasury securities and are called ''Treasury money market funds.''

[8] In this release, we also use the term ''non-government money market fund'' to refer to prime and tax-exempt money market funds.

[9] A retail money market fund is defined as a money market fund that has policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons. *See* 17 CFR 270.2a–7(a)(21) (rule 2a–7(a)(21)).

[10] Under the amortized cost method, a government or retail money market fund's portfolio securities generally are valued at cost plus any amortization of premium or accumulation of discount, rather than at their value based on current market factors. The penny rounding method of pricing permits such a money market fund when pricing its shares to round the fund's NAV to the nearest 1% (*i.e.,* the nearest penny). Together, these valuation and pricing techniques create a ''rounding convention'' that permits these money market funds to sell and redeem shares at a stable share price without regard to small variations in the value of portfolio securities. *See* 17 CFR 270.2a–7(c)(i), (g)(1), and (g)(2). *See generally* Valuation of Debt Instruments and Computation of Current Price Per Share by Certain Open-End Investment Companies (Money Market Funds), Investment Company Act Release No. 13380 (July 11, 1983) [48 FR 32555 (July 18, 1983)] (''1983 Adopting Release''). Throughout this release, we generally use the term ''stable share price'' or ''stable NAV'' to refer to the stable share price that these money market funds seek to maintain and compute for purposes of distribution, redemption, and repurchases of fund shares.

[11] These funds must compare their stable share price to the market-based value per share of their portfolios at least daily.

''floating'' net asset value per share (''NAV'') to sell and redeem their shares, based on the current market-based value of the securities in their underlying portfolios rounded to the fourth decimal place (*e.g.,* $1.0000). These institutional funds are required to use a floating NAV because their investors have historically made the heaviest redemptions in times of market stress and are more likely to act on the incentive to redeem if a fund's stable price per share is higher than its market-based value.[12]

As of July 2021, there were approximately 318 money market funds registered with the Commission, and these funds collectively held over $5.0 trillion of assets.[13] The vast majority of these assets are held by government money market funds ($4.0 trillion), followed by prime money market funds ($875 billion) and tax-exempt money market funds ($101 billion).[14] Slightly less than half of prime money market funds' assets are held by publicly offered institutional funds, with the remaining assets almost evenly split between retail prime money market funds and institutional prime money market funds that are not offered to the public.[15] The vast majority of tax-exempt money market fund assets are held by retail funds.

The Commission adopted rule 2a–7 in 1983 and has amended the rule several times over the years, including in response to market events that have highlighted money market fund vulnerabilities.[16] For example, during 2007–2008, some prime money market funds were exposed to substantial losses from certain of their holdings.[17] At that time, one money market fund ''broke the buck'' and suspended redemptions, and many fund sponsors provided financial support to their funds.[18] These events, along with general turbulence in the financial markets, led to a run primarily on institutional prime money market funds and contributed to severe dislocations in short-term credit markets. The U.S. Department of the Treasury and the Board of Governors of the Federal Reserve System subsequently announced intervention in the short-term markets that was effective in containing the run on prime money market funds and providing additional liquidity to money market funds.[19]

After the events of the 2008 financial crisis, the SEC adopted a number of amendments to its money market fund regulations in 2010 and 2014.[20] In 2010, the Commission adopted amendments to rule 2a–7 that, among other things, for the first time required that money market funds maintain liquidity buffers in the form of specified levels of daily and weekly liquid assets.[21] The amendments required that taxable money market funds have at least 10% of their assets in cash, U.S. Treasury securities, or securities that convert into cash (*e.g.,* mature) within one day (''daily liquid assets''), and that all money market funds have at least 30% of assets in cash, U.S. Treasury securities, certain other government securities with remaining maturities of 60 days or less, or securities that convert into cash within one week (''weekly liquid assets'').[22] These liquidity buffers provide a source of internal liquidity and are intended to help funds withstand high redemptions during times of market illiquidity. The 2010 amendments also increased transparency about a money market fund's holdings by introducing monthly Form N–MFP reporting requirements and website posting requirements. In addition, the Commission further limited the maturity of a fund's portfolio, including by shortening the permitted weighted average portfolio maturity and introducing a separate weighted average life to limit the portion of a fund's portfolio held in longer-term adjustable rate securities.

In 2014, the Commission further amended the rules that govern money market funds. In these amendments the Commission provided the boards of directors of non-government money market funds with new tools to stem heavy redemptions by giving them discretion to impose a liquidity fee or temporary suspension of redemptions (*i.e.,* a gate) if a fund's weekly liquid assets fall below 30%. These amendments also require all non-government money market funds to impose a liquidity fee if the fund's weekly liquid assets fall below 10%, unless the fund's board determines that imposing such a fee is not in the best interests of the fund. Additionally, in 2014 the Commission removed the valuation exemption that permitted institutional non-government money market funds to maintain a stable NAV, and required those funds to transact at a floating NAV. The amendments provided guidance related to amortized cost valuation, as well as introduced requirements for strengthened diversification of money market funds' portfolios and enhanced stress testing. The Commission also introduced a requirement that money market funds report certain significant events on Form N–CR and made other amendments to improve transparency, including additional website posting requirements and amendments to Form N–MFP.

Following the 2014 amendments, government money market funds grew substantially, while prime money market funds diminished in size, as shown in the chart below.[23]

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[12] *See* Money Market Fund Reform; Amendments to Form PF, Investment Company Act Release No. 31166 (July 23, 2014) [79 FR 47735 (Aug. 14, 2014)] (''2014 Adopting Release''). As stated in the 2014 Adopting Release, this incentive exists largely in prime money market funds because these funds exhibit higher credit risk that makes declines in value more likely (compared to government money market funds).

[13] Money Market Fund Statistics, Form N–MFP Data, period ending July 2021, *available at: https://www.sec.gov/files/mmf-statistics-2021-07.pdf.* This data excludes ''feeder'' funds to avoid double counting assets.

[14] *Id.*

[15] Some asset managers establish privately offered money market funds to manage cash balances of other affiliated funds and accounts.

[16] *See* 1983 Adopting Release, *supra* footnote 10; *see also infra* footnote 20.

[17] For a more detailed account of these events, see Money Market Fund Reform, Investment Company Act Release No. 28807 (June 30, 2009) [74 FR 32688 (July 8, 2009)], at section I.D.

[18] *See id.* at paragraphs accompanying nn.41 and 44. At this time, all money market funds generally were permitted to maintain stable prices per share.

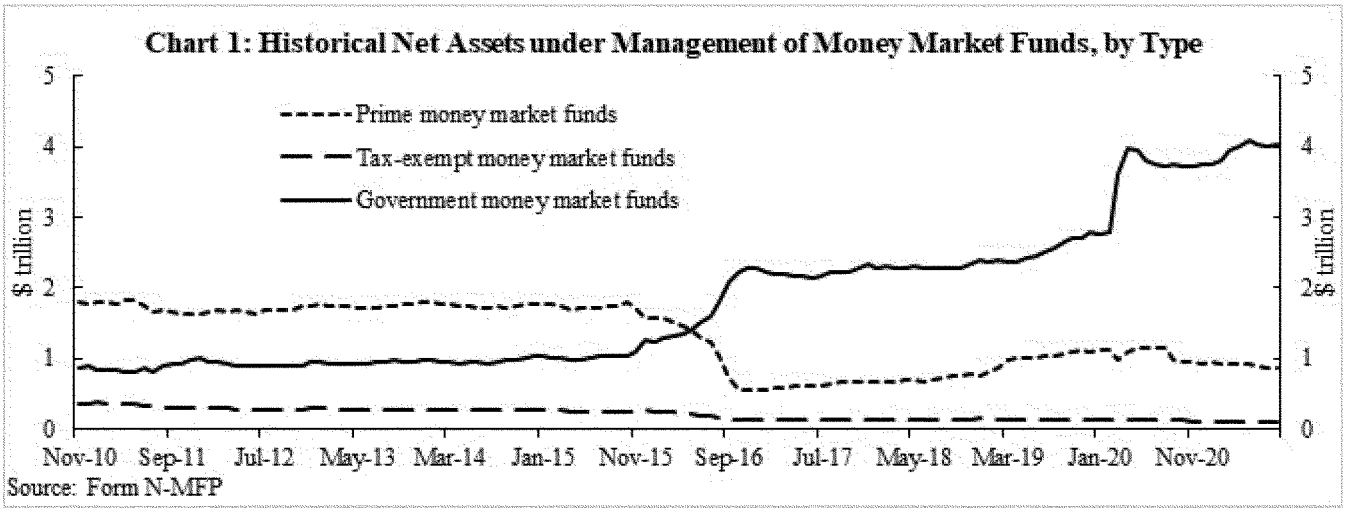
[19] The Treasury Department's Temporary Guarantee Program for Money Market Funds temporarily guaranteed certain investments in money market funds that participated in the program. The Federal Reserve Board's Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility extended credit to U.S. banks and bank holding companies to finance their purchases of high-quality asset-backed commercial paper from money market funds. *See* Press Release, Treasury Department, Treasury Announces Guaranty Program for Money Market Funds (Sept. 19, 2008), *available at https://www.treasury.gov/press-center/press-releases/Pages/hp1161.aspx*; Press Release, Federal Reserve Board, Federal Reserve Board Announces Two Enhancements to its Programs to Provide Liquidity to Markets (Sept. 19, 2008), *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20080919a.htm.*

[20] Money Market Fund Reform, Investment Company Act Release No. 29132 (Feb. 23, 2010) [75 FR 10060 (Mar. 4, 2010)] (''2010 Adopting Release''); 2014 Adopting Release, *supra* footnote 12.

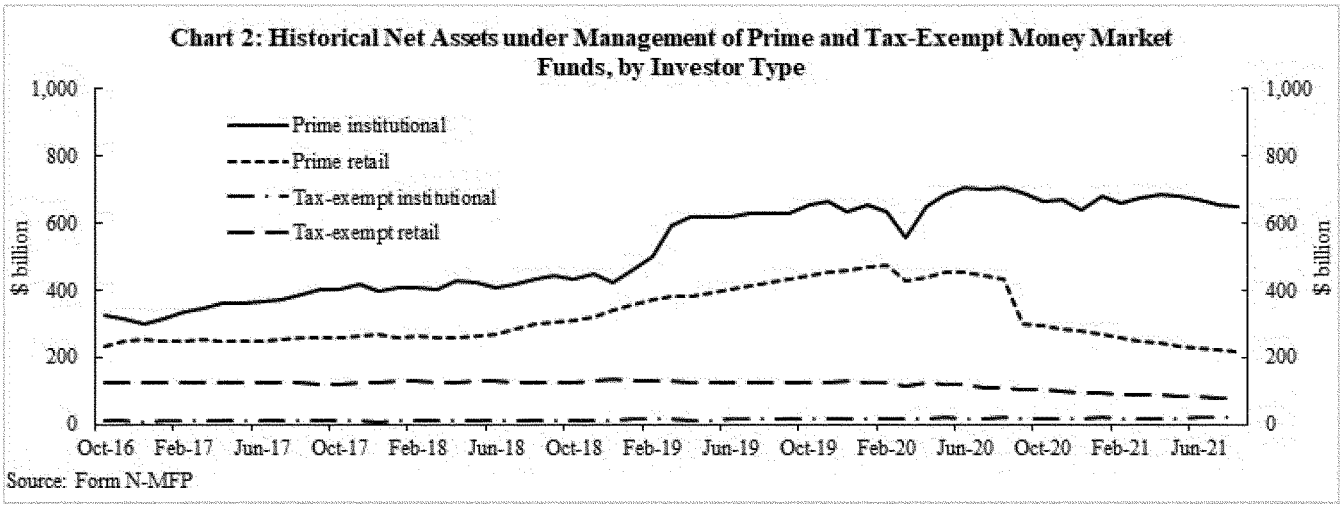
[21] 2010 Adopting Release, *supra* footnote 20. *See* rule 17 CFR 270.2a–7(c)(5)(ii) and (iii).

[22] *See* 17 CFR 270.2a–7(a)(8) (rule 2a–7(a)(8)) (defining ''daily liquid assets'') and 17 CFR 270.2a–7(a)(28) (rule 2a–7(a)(28)) (defining ''weekly liquid assets'').

[23] While the Commission adopted the amendments in 2014, the compliance date for the floating NAV requirement for institutional prime and institutional tax-exempt funds and for the fee and gate provisions for all prime and tax-exempt funds was October 14, 2016.



The chart below depicts the distribution between retail and institutional net assets in both prime and tax-exempt funds beginning in October 2016.[24]



Finally, Table 1 below depicts the key requirements currently applicable to each type of money market fund.

[24] The 2014 amendments introduced a regulatory definition of a retail money market fund and implemented it in October 2016. Data on institutional and retail prime and tax-exempt money market funds prior to this time may not be fully comparable with current data and, thus, Chart 2 covers a period beginning in October 2016.

Table 1: Current Requirements for Money Market Funds*

	Government money market funds	Prime money market funds		Tax-exempt money market funds	
		Institutional	Retail	Institutional	Retail
Fee and gate provisions		X	X	X	X
Permitted to maintain a stable NAV	X		X		X
Daily liquid asset requirement	X	X	X		
Weekly liquid asset requirement	X	X	X	X	X
Maturity limitations	X	X	X	X	X
Forms N-MFP and N-CR reporting requirements	X	X	X	X	X

*Table 1 covers the requirements highlighted in this discussion but is not a comprehensive overview of all requirements that apply to money market funds.

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B. March 2020 Market Events

In March 2020, growing economic concerns about the impact of the COVID–19 pandemic led investors to reallocate their assets into cash and short-term government securities.[25] These heavy asset flows placed stress on short-term funding markets.[26] For instance, commercial paper and certificates of deposit markets in which prime money market funds and other participants invest became ''frozen'' in March 2020, making it more difficult to sell these instruments, which have limited secondary trading even in normal times.[27] Institutional investors, in particular, sought highly liquid investments, including government money market funds.[28] In contrast, institutional prime and tax-exempt money market funds experienced outflows beginning the week of March 9, 2020, which accelerated the following week.[29] Outflows from retail prime and tax-exempt funds began the week of March 16, a week after outflows in institutional funds began. Outflows from some publicly offered institutional prime funds as a percentage of fund size exceeded those in the September 2008 crisis, although the outflows in dollar amounts were much smaller in March 2020, due in part to the significant reductions in the size of prime money market funds that occurred between September 2008 and March 2020.

During the two-week period of March 11 to 24, publicly offered institutional prime funds had a 30% redemption rate (about $100 billion), which included outflows of approximately 20% of assets during the week of March 20 alone.[30] The largest weekly redemption rate from a single publicly offered institutional prime fund during this period was around 55%, and the largest daily outflow was about 26%. In contrast, privately offered institutional prime funds had redemptions of 3% of assets during the week of March 20, and lost approximately 6% of their total assets ($17 billion) from March 9 through 20.

Retail money market funds had lower levels of outflows than publicly offered institutional funds. Retail prime funds had outflows of approximately 11% of their total assets ($48 billion) in the last three weeks of March 2020. Outflows from tax-exempt money market funds, which are mostly retail funds, were approximately 8% of their total assets ($12 billion) from March 12 through 25.

As prime money market funds experienced heavy redemptions, their holdings of weekly liquid assets generally declined. However, these declines were not commensurate with the level of redemptions. Available data suggests that managers were actively managing their portfolios to avoid having weekly liquid assets below 30% of their total assets by, in some cases, selling other portfolio securities to meet redemptions. Available evidence, supported by many comment letters in response to the Commission's request for comment discussed below, suggested that funds' incentives to maintain weekly liquid assets above the 30% threshold were directly tied to investors' concerns about the possibility of redemption gates and liquidity fees under our rules if a fund drops below that threshold.[31] Based on Form N–MFP

[25] *See* SEC Staff Report on U.S. Credit Markets Interconnectedness and the Effects of the COVID–19 Economic Shock (Oct. 2020) (''SEC Staff Interconnectedness Report'') at 2, *available at https://www.sec.gov/files/US-Credit-Markets_COVID-19_Report.pdf.*

[26] Notably, this market stress in March 2020, including its impact on money market funds, was more of a liquidity event than in 2008. In 2008 there were heightened concerns regarding the credit quality of some money market funds' underlying holdings.

[27] *See* SEC Staff Interconnectedness Report, *supra* footnote 25, at 23.

[28] More specifically, government money market funds had record inflows of $838 billion in March 2020 and an additional $347 billion of inflows in April 2020. *See id.* at 25.

[29] *Id.*

[30] This discussion of the size of outflows in March 2020 is based on the Report of the President's Working Group on Financial Markets, Overview of Recent Events and Potential Reform Options for Money Market Funds, *infra* footnote 39, and our additional analysis.

[31] *See, e.g.,* Comment Letter of State Street Global Advisors (Apr. 12, 2021) (''State Street Comment Letter''); Comment Letter of Schwab Asset Management Solutions (Apr. 12, 2021) (''Schwab Comment Letter''); Comment Letter of the Investment Company Institute (Apr. 12, 2021) (''ICI Comment Letter I''); Comment Letter of Wells Fargo Funds Management, LLC (Apr. 12, 2021) (''Wells Fargo Comment Letter''); Comment Letter of J.P. Morgan Asset Management (Apr. 12, 2021) (''JP Morgan Comment Letter''). *See also, e.g.,* Li, Lei, Yi Li, Marco Machiavelli, and Alex Xing Zhou, ''Runs and Interventions in the Time of COVID–19: Evidence from Money Funds,'' working paper (2020), *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3607593* (''Li *et al.*'').

data providing the size of each fund's weekly liquid assets as of the end of each week, between March 13 and March 20, the weekly liquid assets of most money market funds changed by less than 5%. In particular, institutional prime money market funds that were closer to the 30% weekly liquid asset threshold tended to increase their weekly liquid assets, while those with higher weekly liquid assets tended to decrease their weekly liquid assets.[32] One institutional prime fund's weekly liquid assets fell below the 30% minimum threshold set forth in rule 2a–7.[33] To support liquidity of fund portfolios, two fund sponsors provided support to three institutional prime funds by purchasing commercial paper and certificates of deposit the funds held.[34]

On March 18, 2020, the Federal Reserve, with the approval of the Department of the Treasury, broadened its program of support for the flow of credit to households and businesses by taking steps to enhance the liquidity and functioning of money markets with the establishment of the Money Market Mutual Fund Liquidity Facility (''MMLF''). The MMLF provided loans to financial institutions on advantageous terms to purchase securities from money market funds that were raising liquidity, thereby helping enhance overall market functioning and credit provisions to the broader economy.[35] MMLF utilization reached a peak of just over $50 billion in early April 2020, or about 5% of net assets in prime and tax-exempt money market funds at the time.[36] Along with other Federal Reserve actions and programs to support the short-term funding markets, the MMLF had the effect of significantly slowing outflows from prime and tax-exempt money market funds.[37] The MMLF ceased providing loans in March 2021.[38]

Report of the President's Working Group on Financial Markets and the Commission's Request for Comment

The President's Working Group on Financial Markets (''PWG'') issued a report discussing these events and several potential money market fund reform options in December 2020 (the ''PWG Report'').[39] The Commission issued a request for comment (the ''Request for Comment'') on the various reform options discussed in the PWG Report, and the comment period closed in April 2021.[40] We received numerous comments in response to the Request for Comment, which are discussed throughout this release. Several of the reforms we are proposing in this release were included as potential reform options in the PWG Report.[41]

Reasons for Investors' Redemption Behavior

We considered several factors that may have driven investors' redemptions during this period of market stress, including the potential for the imposition of fees and gates as funds neared the 30% weekly liquid asset threshold, declining NAVs, risk reduction, and general concerns about the economic impact of the COVID–19 pandemic. Evidence suggests that concerns about the potential for fees or gates contributed to some investors' redemption decisions. For example, one research paper indicated that institutional prime money market fund outflows accelerated as funds' weekly liquid assets went closer to the 30% threshold.[42] Another paper found that smaller institutional investors redeemed more intensely from prime money market funds with lower liquidity levels, whereas large institutional investors redeemed heavily from prime money market funds regardless of fund liquidity level.[43] Weekly Form N–MFP data analyzed in Table 2 shows that most of the largest asset outflows from institutional prime funds in the third week of March 2020 were from those funds with weekly liquid assets below 41%. The five institutional prime money market funds with the lowest weekly liquid assets accounted for roughly 40% of the dollar change in assets among all such money market funds. Although Table 2 shows that money market funds with weekly liquid assets closer to the 30% threshold had a higher percent of outflows during the week ending March 20, 2020, some prime funds with higher levels of weekly liquid assets also experienced large outflows.[44] While Table 2 is based on weekly data provided on Form N–MFP, a research report found that

[32] Based on our analysis, two-thirds of retail prime money market funds and about half of institutional prime money market funds increased their weekly liquid assets slightly during this period.

[33] The one money market fund that fell below the 30% threshold did not impose a gate or fees.

[34] As reported by these money market funds in their filings on Form N–CR.

[35] Information about the MMLF is available on the Federal Reserve's website at *https://www.federalreserve.gov/monetarypolicy/mmlf.htm*. The Federal Reserve Bank of Boston operated the MMLF.

[36] *See* PWG Report, *infra* footnote 39, at 17. Institutional and retail prime and tax-exempt money market funds were eligible to participate in the MMLF. *See also* Federal Reserve Bank of New York Staff Reports, no. 980, The Money Market Mutual Fund Liquidity Facility (Sept. 2021) at text accompanying nn. 19 and 22, *available at https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr980.pdf* (providing an analysis of prime funds' participation in the MMLF and stating that through its life, the MMLF extended loans to nine banks, which purchased securities from 30 institutional prime funds and 17 retail prime funds).

[37] *See, e.g.,* ''Federal Reserve Issues FOMC Statement'' (Mar. 15, 2020), *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20200315a.htm*; ''Federal Reserve Actions to Support the Flow of Credit to Households and Businesses'' (Mar. 15, 2020), *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20200315b.htm*; ''Federal Reserve Board Announces Establishment of a Commercial Paper Funding Facility (CPFF) to Support the Flow of Credit to Households and Businesses'' (Mar. 17, 2020), *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20200317a.htm*; ''Federal Reserve Board Announces Establishment of a Primary Dealer Credit Facility (PDCF) to Support the Credit Needs of Households and Businesses'' (Mar. 17, 2020), *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20200317b.htm*; ''Federal Reserve Board Broadens Program of Support for the Flow of Credit to Households and Businesses by Establishing a Money Market Mutual Fund Liquidity Facility (MMLF)'' (Mar. 18, 2020), *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20200318a.htm*.

[38] *See supra* footnote 35.

[39] *See* Report of the President's Working Group on Financial Markets, Overview of Recent Events and Potential Reform Options for Money Market Funds (Dec. 2020), *available at https://home.treasury.gov/system/files/136/PWG-MMF-report-final-Dec-2020.pdf*.

[40] Request for Comment on Potential Money Market Fund Reform Measures in President's Working Group Report, Investment Company Act Release No. 34188 (Feb. 4, 2021) [86 FR 8938 (Feb. 10, 2021)]. Comment letters received in response to the Request for Comment are available at: *https://www.sec.gov/comments/s7-01-21/s70121.htm*.

[41] After considering comments on the Commission's request for comment, we are not proposing other reform options discussed in the PWG Report. These other reform options included: (i) Reform of the conditions for imposing redemption gates; (ii) minimum balance at risk; (iii) countercyclical weekly liquid asset requirements; (iv) floating NAVs for all prime and tax-exempt money market funds; (v) capital buffer requirements; (vi) requiring liquidity exchange bank (''LEB'') membership; and (vii) new requirements governing sponsor support. The Commission has considered several of these reform options in the past, including minimum balance at risk, floating NAVs for a broader range of funds, capital buffers, and LEB membership. *See* 2014 Adopting Release, *supra* footnote 12, at section III.L. After considering comments, we believe the package of reforms we are proposing is appropriately tailored to achieve our regulatory goals. *See infra* Section III.D (discussing the reform alternatives in the PWG Report that we are not proposing).

[42] *See* Li *et al., supra* footnote 31.

[43] *See* BIS Quarterly Review: International banking and financial market developments, Bank for International Settlements (Mar. 2021), *available at https://www.bis.org/publ/qtrpdf/r_qt2103.pdf*.

[44] For example, two institutional prime money market funds with outflows greater than 40% had weekly liquid assets of 46% and 48%.

weekly liquid assets dropped during the third week of March 2020, but started to recover by the end of the week.[45]

Beyond concerns about the potential imposition of fees or gates, general declines in liquidity levels may have been a concern for investors because the declines can signify that a fund may be less equipped to handle redemptions in the near-term. While declining liquidity on its own likely contributed to some investors' redemption decisions, a few commenters provided information from investor surveys suggesting that the potential for gates, and to a somewhat lesser extent the potential of liquidity fees, was a more common concern among investors.[46]

Table 2: Aggregate Asset Changes as a Function of Weekly Liquid Assets and Maturity for the Week Ending March 20, 2020

WLA	Number of Funds	AUM ($ Billions)	Asset Change ($ Billions)				Asset Change (%)			
			1-Day	2-7 Days	>7 Days	Net	1-Day	2-7 Days	>7 Days	Net
All Prime Funds										
≤ 36%	7	110.5	-11.0	-4.4	-17.9	-33.4	-7.6%	-3.1%	-12.5%	-23.2%
(36%-41%]	14	274.7	7.6	-28.6	-20.7	-41.6	2.4%	-9.0%	-6.5%	-13.2%
(41%-46%]	30	346.9	3.0	-17.5	-14.3	-28.8	0.8%	-4.7%	-3.8%	-7.7%
> 46%	28	270.0	-7.4	-0.4	-5.3	-13.1	-2.6%	-0.1%	-1.9%	-4.6%
Total	79	1002.0	-7.8	-51	-58.2	-116.9	-0.7%	-4.6%	-5.2%	-10.5%
Retail Prime Funds										
≤ 36%	3	30.1	0.2	-2.3	-0.7	-2.9	0.5%	-7.0%	-2.2%	-8.8%
(36%-41%]	7	199.8	11.8	-23.0	-8.2	-19.3	5.4%	-10.5%	-3.7%	-8.8%
(41%-46%]	13	206.7	12.1	-9.4	-3.3	-0.5	5.9%	-4.5%	-1.6%	-0.2%
> 46%	7	12.3	0.9	-0.3	-0.7	0.0	7.4%	-2.5%	-5.3%	-0.4%
Total	30	448.8	25.1	-35.0	-12.8	-22.8	5.3%	-7.4%	-2.7%	-4.8%
Institutional Prime Funds (public)										
≤ 36%	4	80.4	-11.1	-2.1	-17.2	-30.5	-10.0%	-1.9%	-15.5%	-27.5%
(36%-41%]	7	74.9	-4.2	-5.6	-12.5	-22.3	-4.3%	-5.8%	-12.8%	-22.9%
(41%-46%]	16	140.2	-9.5	-7.9	-10.9	-28.3	-5.6%	-4.7%	-6.5%	-16.8%
> 46%	16	53.9	-1.5	-1.4	-4.2	-7.0	-2.4%	-2.3%	-6.9%	-11.5%
Total	43	349.4	-26.2	-17.0	-44.8	-88.1	-6.0%	-3.9%	-10.2%	-20.1%
Institutional Prime Funds (non-public)										
(41%-46%]	1	1.7	0.3	-0.2	-0.1	0.0	17.9%	-13.7%	-4.7%	-0.4%
> 46%	5	203.8	-6.8	1.3	-0.5	-6.0	-3.3%	0.6%	-0.2%	-2.9%
Total	6	205.5	-6.5	1.1	-0.6	-6.0	-3.1%	0.5%	-0.3%	-2.9%
All Municipal Funds										
> 46%	80	127.4	0.2	-10.7	-2.4	-12.9	0.2%	-7.6%	-1.7%	-9.2%

We also considered the possibility that declining market-based prices for retail and institutional non-government funds contributed to investors' redemptions in March 2020. For retail funds that maintain a stable NAV, declining market-based prices can contribute to investor concerns that these funds may ''break the buck'' (*i.e.,* have market-based prices below $0.9950) and re-price their shares below $1.00. Most retail prime and tax-exempt money market funds experienced declining market-based prices in March 2020. However, only one retail tax-exempt fund reported a market-based price below $0.9975, and that fund subsequently received sponsor support in the form of a capital contribution to reduce the deviation between the fund's market-based price and its stable price per share.[47] Moreover, retail prime and tax-exempt money market funds with lower market-based prices did not experience larger outflows than other retail prime and tax-exempt money market funds, so these funds' flows in March 2020 appear to have been unrelated to market-based prices. Like retail funds, most institutional prime and tax-exempt money market funds experienced declines in their market-based prices in March 2020. However, none of the market-based prices dropped below $0.9975. Staff analysis and an external study did not find a

[45] For example, on March 16 there were two institutional prime money market funds with weekly liquid assets less than 35%, six on March 18, and three on March 20. *See* ICI Report, Experiences of US Money Market Funds During the Covid–19 Crisis (Nov. 2020) (''ICI MMF Report''), *available at https://www.ici.org/pdf/20_rpt_covid3.pdf.*

[46] *See infra* footnote 73 (discussing these surveys).

[47] PWG Report, *supra* footnote 39, at 15.

correlation between market prices and institutional prime fund redemptions during this time.[48]

We also considered the potential relationship between a money market fund's portfolio holdings and investors' redemption behavior. Investor redemption behavior differed based on the overall nature of a money market fund's portfolio, given that government money market funds had significant inflows and prime money market funds had large outflows. However, unlike the events of 2008, redemptions from prime money market funds did not appear to be correlated to a fund's particular holdings. For instance, prime money market funds with the largest holdings of commercial paper and certificates of deposit did not experience greater redemptions than other prime funds, even though the commercial paper and certificates of deposit markets were experiencing greater strains in March 2020 than other markets in which money market funds invest.[49]

Beyond factors that relate to the regulatory framework for money market funds, there are other factors that may have had a relationship to investors' redemption incentives in March 2020. As some commenters suggested, general uncertainty of a global health crisis and fears of possible business disruptions and economic downturns in the real economy as people stayed at home resulted in investors becoming increasingly risk averse and seeking to preserve or increase liquidity.[50] Some commenters also asserted that some institutional investor redemptions were ordinary course redemptions that otherwise would have occurred, irrespective of the pandemic and market stress, to meet near-term cash needs, including for operating cash, to make quarterly corporate tax payments, or to meet payroll expenses.[51]

In addition, our staff identified some relationships between the size of outflows and the type of adviser to the fund or the size of the fund. This revealed that publicly offered prime institutional money market funds managed by bank-affiliated advisers had the most outflows in March 2020.[52] Money market funds complexes with lower assets under management in publicly offered prime institutional money market funds also generally had larger outflows during this time.[53]

Connection Between Money Market Fund Outflows and Stress in Short-Term Funding Markets

In markets for private short-term debt instruments, such as commercial paper and certificates of deposit, conditions significantly deteriorated in the second week of March 2020. Spreads for commercial paper and certificates of deposits began widening sharply, and new issuances declined and shifted to shorter tenors.[54] While there is limited secondary activity in these markets even in normal times, several industry commenters discussed particular difficulties selling commercial paper in March 2020.[55] Moreover, where money market funds were able to sell commercial paper during this period, increased selling activity from institutional prime funds may have contributed to stress in these markets as discussed below.

Using Form N–MFP data, we observed that retail prime and privately offered institutional prime funds did not sell significantly more long-term portfolio securities (*i.e.,* securities that mature in more than a month) in March 2020 relative to their typical averages. Publicly offered institutional prime funds, however, increased their sales of long-term securities in March 2020 to 15% of total assets during this time period, which includes assets sold to the MMLF and sponsors, compared to a 4% monthly average during the period from October 2016 through February 2020. In March 2020, these funds sold around $52 billion in certificates of deposit and commercial paper with maturities greater than one month.[56] Of this amount, approximately $4 billion was sold to fund sponsors, as reported on Form N–CR. Combining this data with data provided by an industry group's member survey and Federal Reserve data on the balance of the MMLF, prime money market funds sold an estimated $80 billion in commercial paper and certificates of deposit in March 2020, with approximately 5% ($4 billion) of that total sold to sponsors, 66% ($53 billion) pledged to the MMLF, and 29% ($23 billion) sold in the secondary market.[57] Thus, we find that prime money market funds, particularly institutional funds, were engaging in greater than normal selling activity in these markets which, when combined with similar selling from other market participants such as hedge funds and bond mutual funds, both contributed to, and were impacted by, stress in short-term funding markets.[58]

[48] *See* Baklanova, Kuznits, and Tatum, ''Prime MMFs at the Onset of the Pandemic: Asset Flows, Liquidity Buffers, and NAVs,'' SEC Staff Analysis (Apr. 15, 2021) (''Prime MMFs at the Onset of the Pandemic Report'') at 5, *available at https://www.sec.gov/files/prime-mmfs-at-onset-of-pandemic.pdf.* Any statements therein represent the views of the staff of the Division of Investment Management. These statements are not a rule, regulation, or statement of the U.S. Securities and Exchange Commission. The Commission has neither approved nor disapproved their content. Such statements, like all staff statements, have no legal force or effect: They do not alter or amend applicable law, and they create no new or additional obligations for any person. *See also* Li *et al., supra* footnote 31.

[49] The five institutional prime money market funds with the highest concentration of commercial paper and certificates of deposit accounted for roughly 3% of the dollar change in assets among all institutional prime money market funds. These five funds each held between 71% and 83% of their assets in commercial paper and certificates of deposit. In aggregate, these five funds held $31 billion in assets on March 13, 2020, and experienced a combined outflow of $3 billion, or roughly 10% of their total assets, during the week of March 20, 2020.

[50] *See, e.g.,* ICI Comment Letter I; JP Morgan Comment Letter; Comment Letter of the Vanguard Group, Inc. (Apr. 12, 2021) (''Vanguard Comment Letter''); Comment Letter of Federated Hermes, Inc. (Apr. 12, 2021) (''Federated Hermes Comment Letter I'').

[51] *See, e.g.,* Comment Letter of Invesco (Apr. 12, 2021) (''Invesco Comment Letter'') (stating that prime money market funds experienced increased redemptions leading up to the quarterly corporate tax deadline); Federated Hermes Comment Letter I (citing a Carfang Group survey in which 50% of surveyed corporate treasurers who redeemed from institutional prime funds in March 2020 stated that they were doing so to meet operating cash needs); Comment Letter of the Securities Industry and Financial Markets Association Asset Management Group (Apr. 12, 2021) (''SIFMA AMG Comment Letter'') (stating that tax return filings for partnerships and S-corporations were due on March 16, 2020, and many businesses had biweekly or semimonthly payroll expenses around the same time).

[52] *See* Prime MMFs at the Onset of the Pandemic Report, *supra* footnote 48, at 3. The analysis in this report concluded that the largest outflows in mid-March 2020 were from the publicly offered prime institutional money market funds with advisers owned by banking firms. The funds with advisers owned by the largest U.S. banks designated as global systemically important banks (''G–SIBs'') accounted for 56% of the outflows in the third week of March, even though these funds managed only around 28% of net assets in publicly offered prime institutional money market funds.

[53] *Id* at 3.

[54] PWG Report, *supra* footnote 39, at 11.

[55] *See infra* footnote 202 and accompanying paragraph.

[56] This analysis is based on longer-term holdings that these funds reported on Form N–MFP in February 2020 but that they did not report holding in March 2020. The estimate includes $24.3 billion in certificates of deposit and $28.1 billion in commercial paper.

[57] Our analysis of available data suggests that of the $80 billion in commercial paper and certificates of deposit sold in March 2020, about $70 billion had maturities greater than a month and about $10 billion had maturities less than a month. As of April 1, 2020, the MMLF balance was close to $53 billion according to the Federal Reserve's weekly data, *available at https://www.federalreserve.gov/releases/h41/20200402/. See* ICI Comment Letter I (providing information about money market fund selling activity in March 2020 based on a member survey).

[58] *See, e.g.,* SEC Staff Interconnectedness Report, *supra* footnote 25, at 4. At the end of February 2020, prime money market funds offered to the public owned about 19% of commercial paper outstanding. *See* PWG Report, *supra* footnote 39, at 11.

Conditions in short-term municipal debt markets also worsened rapidly in March 2020. Stresses in short-term municipal markets contributed to pricing pressures and outflows for tax-exempt money market funds which, in turn, contributed to increased stress in municipal markets.[59] Table 2 shows that as tax-exempt money market funds experienced heightened redemptions in the third week of March 2020 of 9.2%, they reduced their holdings (*e.g.,* tender option bonds and variable rate demand notes) by $12.9 billion that week.

One commenter suggested that the overall issue in the municipal securities market in March 2020 was selling pressure from many market participants, and not selling pressure from tax-exempt money market funds, which make up only a small portion of the overall market.[60] This commenter suggested that other market participants were raising cash by selling short-term municipal securities, which caused meaningful discounts on the market value of those securities and consequently placed downward pressure on market-based NAVs of tax-exempt money market funds. The commenter also stated that longer-term municipal money market securities, and not variable rate demand notes, bore the brunt of the market stress in March 2020. Another commenter suggested that tax-exempt money market funds sold longer-term holdings in March 2020 to maintain an average weighted maturity of not more than 60 days, rather than to maintain weekly liquid assets above 30% (given that these funds typically hold much higher levels of weekly liquid assets).[61] Our analysis found that tax-exempt money market funds sold a larger amount of portfolio securities with maturities of more than a month in March 2020 than they typically do. Retail tax-exempt money market funds sold 16% of total assets of such holdings during this period, compared to a monthly average of 3% during the period from October 2016 through February 2020. Institutional tax-exempt money market funds increased their sales of longer-term securities from 5% of total assets during the period from October 2016 through February 2020 to 24% in March 2020. Similar to what we observed with prime money market funds, tax-exempt funds engaged in greater than normal selling activity.[62]

II. Discussion

A. Amendments To Remove Liquidity Fee and Redemption Gate Provisions

1. Unintended Effects of the Tie Between the Weekly Liquid Asset Threshold and Liquidity Fees and Redemption Gates

Under current rule 2a–7, a money market fund has the ability to impose liquidity fees or redemption gates (generally referred to as ''fees and gates'') after crossing a specified liquidity threshold.[63] A money market fund may impose a liquidity fee of up to 2%, or temporarily suspend redemptions for up to 10 business days in a 90-day period, if the fund's weekly liquid assets fall below 30% of its total assets and the fund's board of directors determines that imposing a fee or gate is in the fund's best interests.[64] Additionally, a non-government money market fund is required to impose a liquidity fee of 1% on all redemptions if its weekly liquid assets fall below 10% of its total assets, unless the board of directors of the fund determines that imposing such a fee would not be in the best interests of the fund.[65] Separately, a money market fund is required to provide daily disclosure of the percentage of its total assets invested in weekly liquid assets (as well as daily liquid assets) on its website to provide transparency to investors and increase market discipline.[66]

Fees and gates were intended to serve as redemption restrictions that would provide a ''cooling off'' period to temper the effects of a short-term investor panic and preserve liquidity levels in times of market stress, as well as better allocate the costs of providing liquidity to redeeming investors.[67] However, these provisions did not achieve these objectives during the period of market stress in March 2020. Based on available evidence, even though no money market fund imposed a fee or gate, the possibility of the imposition of a fee or gate appears to have contributed to incentives for investors to redeem and for money market fund managers to maintain weekly liquid asset levels above the threshold, rather than use those assets to meet redemptions.[68] These tools therefore appear to have potentially increased the risks of investor runs without providing benefits to money market funds as intended. As a result, and after considering comments, we are proposing to remove the tie between liquidity thresholds and fee and gate provisions and, moreover, to remove fee and gate provisions from rule 2a–7 entirely.[69]

Commenters broadly supported removal of the tie between weekly liquid asset thresholds and the potential imposition of fees and gates.[70] Many commenters stated that this tie contributed to investors' incentives to redeem in March 2020 as funds' weekly liquid assets declined.[71] Commenters suggested that, although the rule allows but does not require a fund's board to impose redemption gates or liquidity fees when the fund drops below the 30% weekly liquid asset threshold, investors viewed the 30% threshold as a bright line prompting redemptions.[72]

[59] *See* PWG Report, *supra* footnote 39, at 12. *See also* SEC Staff Interconnectedness Report, *supra* footnote 25, at 27.

[60] Vanguard Comment Letter.

[61] Comment Letter of Stephen Keen (Apr. 28, 2021). This commenter also disagreed with a statement in the PWG Report that a spike in the SIFMA index yield caused a drop in market-based NAVs of tax-exempt money market funds. The commenter suggested that it is more likely that the fund reporting a market-based NAV below $0.9775 had already realized losses from earlier portfolio sales and sold longer-term holdings in response to redemptions in March, with the March redemptions increasing the significance of the realized losses.

[62] Although the tax-exempt money market funds held only $127 billion in assets in the third week of March 2020, they, like other larger market participants, found it difficult to sell assets during this period of market stress.

[63] Government funds are permitted, but not required, to impose fees and gates, as discussed below.

[64] If, at the end of a business day, a fund has invested 30% or more of its total assets in weekly liquid assets, the fund must cease charging the liquidity fee (up to 2%) or imposing the redemption gate, effective as of the beginning of the next business day. *See* 17 CFR 270.2a–7(c)(2)(i)(A) and (B), and (ii)(B).

[65] The board also may determine that a lower or higher fee would be in the best interests of the fund. *See* 17 CFR 270.2a–7(c)(2)(ii)(A).

[66] 17 CFR 270.2a–7(h)(10)(ii); 2014 Adopting Release, *supra* footnote 12, at section III.E.9.a.

[67] *See* 2014 Adopting Release, *supra* footnote 12, at section III.L.1.a.

[68] *See supra* Section I.B.

[69] We also propose to remove related disclosure and reporting provisions that require funds to disclose certain information about the possibility of fees and gates in their prospectuses and to report any imposition of fees or gates on Form N–CR, on the fund's website, and in its statement of additional information. *See* Items 4(b)(1)(ii) and 16(g)(1) of current Form N–1A; Parts E, F, and G of current Form N–CR; 17 CFR 270.2a–7(h)(10)(v).

[70] *See e.g.,* ICI Comment Letter I; SIFMA AMG Comment Letter; Comment Letter of Fidelity Management & Research Company LLC (Apr. 12, 2021) (''Fidelity Comment Letter''); Comment Letter of Northern Trust Asset Management (Apr. 12, 2021) (''Northern Trust Comment Letter''); Schwab Comment Letter; Comment Letter of Professors of Finance, Stanford Graduate School of Business, and The University of Chicago Booth School of Business (Apr. 9, 2021) (''Prof. Admati et al. Comment Letter''); Comment Letter of Healthy Markets Association (Apr. 19, 2021) (''Healthy Markets Comment Letter'').

[71] *See, e.g.,* ICI Comment Letter I; Vanguard Comment Letter; Fidelity Comment Letter; Prof. Admati et al. Comment Letter; Comment Letter of U.S. Chamber of Commerce Center for Capital Markets Competitiveness (Apr. 12, 2021) (''CCMC Comment Letter'').

[72] *See* Schwab Letter; ICI Comment Letter I; Comment Letter of the Investment Company Institute (May 12, 2021) (''ICI Comment Letter II''); JP Morgan Comment Letter; Wells Fargo Comment Letter.

Some commenters also provided information suggesting that concerns about the potential imposition of fees or gates contributed to institutional investors' decisions to redeem.[73] One commenter stated that these concerns, combined with investors' ability to track weekly liquid asset levels on a daily basis, drove investors' redemption behavior.[74] A few commenters suggested that investors were more concerned about the potential for temporary suspensions of redemptions than the potential for liquidity fees.[75] In addition, a few commenters stated that retail investors were less sensitive to concerns about potential fees or gates than institutional investors.[76]

Several commenters also discussed the effect of the connection between liquidity thresholds and fees and gates on money market fund managers' behavior in March 2020. These commenters stated that, rather than use weekly liquid assets, some managers sold longer-dated securities to meet redemptions to avoid falling below the 30% threshold.[77] Commenters asserted that these sales led to losses for funds and their remaining investors, and contributed to downward pricing pressure on the underlying securities.[78] A few commenters also suggested that the pressure for money market funds to maintain liquidity buffers well above the 30% threshold exacerbated market stress in March 2020 as most money market funds were seeking liquidity at the same time to maintain or build their buffers in the face of redemptions.[79] Commenters also recognized that, in a few instances, fund sponsors provided financial support by purchasing securities from affiliated institutional prime money market funds to prevent these funds from dropping below the 30% weekly liquid asset threshold.[80] One commenter stated that, prior to the 2014 reforms that created the connection between liquidity thresholds and fees and gates, money market funds regularly used their liquidity buffers and had weekly liquid assets below the 30% threshold without adverse consequences.[81]

We recognize that the current fee and gate provisions did not have their intended effect in March 2020 and, instead, appear to have contributed to some of the stress that some money market funds and short-term funding markets faced during that period. Some investors may have feared that if they were not the first to exit their fund, there was a risk that they could be subject to gates or fees, and this anticipatory, risk-mitigating perspective potentially further accelerated redemptions. As discussed above, our analysis and external research are consistent with commenters' views on investor behavior and found that prime and tax-exempt money market funds whose weekly liquid assets approached the 30% threshold had, on average, larger outflows in percentage terms than other prime and tax-exempt money market funds.[82]

2. Removal of Redemption Gates From Rule 2a–7

We are proposing to remove the ability of a money market fund to impose redemption gates under rule 2a–7, as suggested by some commenters.[83] For example, a few commenters suggested that gates be eliminated from rule 2a–7 entirely, or that funds be permitted to suspend redemptions only under extraordinary circumstances, such as in anticipation of a fund liquidation in accordance with rule 22e–3.[84] One of these commenters suggested that, given the strong investor aversion to gates and the likelihood that liquidation would be a consequence of any board determination to impose a gate, the current gate provisions contemplated for fund liquidations in existing rule 22e–3 may be sufficient.[85] Based on the experience in March 2020, we are concerned that redemption gates may not be an effective tool for money market funds to stem heavy redemptions in times of stress due to money market fund investors'—who typically invest in money market funds for cash management purposes—general sensitivity to being unable to access their investments for a period of time and tendency to redeem from such funds preemptively if they fear a gate may be imposed. Under the proposal, a money market fund would continue to be able to suspend redemptions to facilitate an orderly liquidation of the fund under rule 22e–3. Rule 22e–3 generally allows a money market fund to suspend redemptions if, among other conditions, (1) the fund, at the end of a business day, has invested less than 10% of its total assets in weekly liquid assets or, in the case of a government or retail money market fund, the fund's price per share has deviated from its stable price (*i.e.,* it has ''broken the buck'') or the fund's board determines that such a deviation is likely to occur, and (2) the fund's board has approved the fund's liquidation. We continue to believe that the ability to suspend redemptions in these circumstances can help address the significant run risk and potential harm to shareholders.

Some commenters suggested other ways of removing the tie between the weekly liquid asset threshold and a fund's ability to impose a gate. For example, some suggested that fund boards should have discretion to impose gates at any time they determine doing so is in the best interests of the fund.[86]

[73] *See, e.g.,* JP Morgan Comment Letter (discussing an informal survey of institutional investor clients in which respondents, on average, identified the potential for gates as the most important factor affecting their decisions to redeem among several possible factors the survey identified); Federated Hermes Comment Letter I (citing a survey of 39 treasury managers in which 49% of the treasurers decreased their holdings of prime money market funds in March 2020 and, of those treasurers, 87% mentioned the potential of ''redemption hurdles'' as a factor in their decision to redeem).

[74] ICI Comment Letter I.

[75] *See* Invesco Comment Letter (stating that investors were less concerned about the price of their shares and more concerned about not having access to their shares, particularly for investors who were bolstering their liquidity positions ahead of what was an unknown situation in March 2020); ICI Comment Letter I (stating that investors view access to their money as paramount in stress periods and are less concerned with ''losing a few pennies'' through, for example, a fee); ICI Comment Letter II.

[76] *See, e.g.,* ICI Comment Letter I (stating that retail prime money market funds did not exhibit the same pattern of increasing redemptions as a fund neared the 30% threshold, despite the fact that retail prime funds are subject to the same fee and gate provisions as institutional prime funds); Fidelity Comment Letter.

[77] *See, e.g.,* State Street Comment Letter; ICI Comment Letter I; JP Morgan Comment Letter.

[78] *See, e.g.,* JP Morgan Comment Letter.

[79] *See* Schwab Comment Letter; State Street Comment Letter (stating that the commenter observed that institutional prime money market funds held, on average, weekly liquid assets of approximately 45% during March 2020).

[80] *See, e.g.,* ICI Comment Letter I; Wells Fargo Comment Letter.

[81] ICI Comment Letter I (stating that for the more than 6 years the 30% weekly liquid asset threshold was in effect but not connected to fee and gate provisions, 68% of prime money market funds and 10% of tax-exempt money market funds dropped below the 30% threshold at least once, and at least one prime money market fund was below this threshold in nearly each week during this period).

[82] *See supra* Section I.B (discussing our analysis and external papers).

[83] *See* Vanguard Comment Letter; Comment Letter of Western Asset Management Company, LLC (Apr. 12, 2021) (''Western Asset Comment Letter''); *see also* JP Morgan Comment Letter; ICI Comment Letter I.

[84] *See* Vanguard Comment Letter (noting the negative potential consequences if gates remain in the rule text); Western Asset Comment Letter (recommending that gates be permitted only under extraordinary circumstances, such as when a fund is in severe difficulties or in anticipation of liquidation); JP Morgan Comment Letter (suggesting either that the gate provision be removed from the rule or that rule 2a–7 grant boards the discretion to impose gates at any time if they deem it to be in the best interest of the fund).

[85] *See* JP Morgan Comment Letter.

[86] *See e.g.,* Wells Fargo Comment Letter; Federated Hermes Comment Letter I; Comment Letter of the Institute of International Finance (Apr. 12, 2021) (''Institute of International Finance Comment Letter''); Comment Letter of the American

Continued

One commenter stated that some institutional investors may still redeem preemptively when a fund's weekly liquid assets approach the 30% threshold out of fear of a gate, but asserted that granting the board discretion without a liquidity threshold tie would reduce the incentive for a large percentage of shareholders to preemptively redeem. The commenter also suggested this approach could materially improve the functioning of money market funds in any future liquidity events and could be easily implemented within the existing regulatory framework.[87] A few other commenters recommended that any reform should maintain a regulatory link between the weekly liquid asset threshold and the imposition of gates, but that the weekly liquid asset threshold should be lowered to 10% or 15%.[88] These commenters expressed concern that without clear regulatory protocol on when money market funds could implement gates, boards might face too much pressure in making this decision and investors may have additional uncertainty, which could negatively affect investor redemption decisions.

We are not proposing a gate provision, either with or without an associated liquidity threshold, to limit the potential for investor uncertainty and de-stabilizing preemptive investor redemption behavior regarding the potential use of gates during stress events. Based on investor behavior in March 2020, we are concerned that voluntary gates may not be imposed, and if imposed, could lead to the closure of the fund in question. Rule 22e–3 under the Act provides a mechanism for a fund to suspend redemptions to facilitate an orderly liquidation, so we believe that this provision provides adequate flexibility for liquidating funds without incentivizing de-stabilizing investor redemption behavior during stress events. In addition, without a specific regulatory threshold or other specific guidelines to govern the imposition of gates, it may be difficult for a fund's board to determine whether it is in the fund's best interests to impose a voluntary gate. We are concerned that the discretionary ability of the board to impose gates could add uncertainty in times of market stress, and investors may decide to redeem at this time simply to avoid the potential imposition of a gate. Such preemptive redemptions could increase pressure on fund liquidity during periods of market stress.

We request comment on our proposal to remove from rule 2a–7 the ability of money market funds to impose redemption gates and to retain the availability of a suspension under the terms set forth in rule 22e–3, including the following:

1. Should we, as proposed, no longer allow money market funds to impose redemption gates under rule 2a–7? Are there circumstances, beyond those covered by rule 22e–3, in which the ability of a money market fund to impose a gate or suspend redemptions would provide benefits to money market funds and short-term funding markets?

2. Instead of removing the ability to impose gates from rule 2a–7, should we retain gates as an available tool for money market funds? If so, should we modify the current provision to remove the tie between gate determinations and liquidity thresholds? Should a fund board be able to impose a gate any time it determines that doing so is in the best interests of the fund? If so, should a fund have to opt in ex ante to having gates as a potential tool? In what circumstances would it likely be in the fund's best interests to impose a gate? Would a board impose a gate in practice and, if so, what are the practical consequences of any such decision? Would it be effective to require a fund to adopt board-approved policies and procedures that identify the circumstances in which the fund would impose a gate? If so, what factors should those policies and procedures consider for purposes of when to impose a gate? How would this approach affect investor and fund behavior? For example, would investors be likely to redeem preemptively in times of stress out of concern that a fund may impose a gate, or would investors view a redemption gate as unlikely under this approach?

3. If we retain the connection between redemption gates and liquidity thresholds, what liquidity threshold should we use to permit a board to impose a redemption gate? For example, should the liquidity threshold remain at 30% weekly liquid assets, increase to 50% weekly liquid asset in connection with our proposal to increase liquidity requirements, or be lower than the current 30% threshold (*e.g.,* 10% or 15% weekly liquid assets)? Should the board's ability to impose a redemption gate instead be tied to a daily liquid asset threshold, such as the current 10% threshold, the proposed 25% threshold discussed below, or a lower threshold, such as 5%? How would these changes affect investor and fund behavior? Are there other ways we should modify provisions related to redemption gates to make them less likely to incentivize preemptive redemptions in times of stress?

4. Should we allow certain types of money market funds to impose redemption gates, but not others? For example, are retail investors less sensitive to the potential imposition of gates, such that allowing retail funds to impose gates is less likely to contribute to incentives to redeem preemptively? Alternatively, should we only allow institutional funds to impose gates given that these funds historically have experienced higher levels of redemptions in times of stress?

5. If we retain a redemption gate provision in rule 2a–7, would the board's ability to impose a redemption gate reduce the need for, or otherwise affect, other regulatory provisions we are proposing (*e.g.,* the swing pricing requirement for institutional prime and institutional tax-exempt money market funds, increased liquidity requirements for all money market funds)?

3. Removal of Liquidity Fees From Rule 2a–7

We also are proposing to remove from rule 2a–7 the provisions allowing or requiring money market funds to impose liquidity fees once the fund crosses certain liquidity thresholds. As a general matter, we believe investors are less sensitive to the possibility of bearing liquidity costs than they are to the possibility of redemption gates.[89] We also continue to believe it is important for institutional prime and institutional tax-exempt money market funds to have a tool to cause redeeming investors to bear the costs of liquidity if they redeem during a period of stress. However, we do not believe the current liquidity fee provisions in rule 2a–7 achieve this goal. In March 2020, no money market funds imposed liquidity fees, despite the fact that many institutional prime and tax-exempt funds were experiencing significant outflows and some were selling

Bankers Association (Apr. 12, 2021) (''ABA Comment Letter''); JP Morgan Comment Letter; ICI Comment Letter I; Comment Letter of Federated Hermes, Inc. (Sept. 13, 2021) (''Federated Hermes Comment Letter III'') (suggesting the rule identify certain types of information that a fund's board could consider requesting from the adviser to inform this decision).

[87] Wells Fargo Comment Letter.

[88] Comment Letter of Dreyfus Cash Investment Strategies (Apr. 12, 2021) (''Dreyfus Comment Letter''); Comment Letter of T. Rowe Price (Apr. 12, 2021) (''T. Rowe Price Comment Letter''); Comment Letter of BlackRock, Inc. (Apr. 12, 2021) (''BlackRock Comment Letter'').

[89] *See supra* footnote 75 (discussing comment letters that expressed the view that the possibility of redemption gates was a greater concern for investors in March 2020 than the possibility of liquidity fees).

portfolio holdings to meet redemptions, sometimes at a significant loss due to wider spreads given liquidity conditions in the market at that time.[90] In part, this is due to the design of the current rule, given that only one institutional prime fund had weekly liquid assets below the 30% threshold and could have therefore imposed a liquidity fee.

Some commenters recommended that we allow a fund's board to impose liquidity fees whenever the board determines that doing so is in the best interests of shareholders, without reference to a specific liquidity threshold.[91] A few other commenters suggested allowing fund boards to impose liquidity fees when the fund's weekly liquid assets reach a set level that is lower than the existing 30% threshold.[92] Some commenters suggested that we require money market funds to have policies and procedures that provide a fund's board with direction on when to impose fees and how to calculate them.[93] Another commenter recommended that the rule identify certain types of information that the board could request from the fund's adviser to inform its decision of whether to impose liquidity fees and require the board to summarize the basis of its decision to impose liquidity fees in a report to the Commission.[94] We are not proposing any of these approaches because we do not believe they would result in timely decisions to impose liquidity fees on days when the fund has net outflows that, due to associated costs to meet those redemptions, will dilute the value of the fund for remaining shareholders.[95] Moreover, while one commenter suggested removing the ability to impose fees from rule 2a–7, the commenter did not support any alternative tools for imposing liquidity costs on redeeming investors.[96]

For institutional prime and tax-exempt money market funds, we are concerned that the current rule—and the alternatives commenters suggested—would not protect remaining investors in a fund from dilution resulting from sizeable outflows in future periods of stress. While we are proposing to remove liquidity fee provisions from the rule, we believe it is important for these funds to have an effective tool to address shareholder dilution and potential institutional investor incentives to redeem quickly in times of liquidity stress to avoid further losses. As a result, we are proposing to require institutional prime and tax-exempt money market funds to implement swing pricing, as discussed in more detail below.

For retail prime and tax-exempt funds, these funds historically have experienced lower, more gradual levels of redemptions in stress periods than institutional funds. This was also true in March 2020, when retail prime funds had outflows of approximately 11% over a three-week period in comparison to institutional prime fund outflows of approximately 30% over a two-week period. As discussed below, we are proposing to increase liquidity requirements for all money market funds, including retail funds. When the Commission originally determined to apply the fee and gate provisions to retail funds, it expressed concern that retail investors may be motivated to redeem heavily in flights to quality, liquidity, and transparency (even if they may do so somewhat more slowly than institutional investors) and stated that it could not rule out the potential for heavy redemptions in retail funds in the future.[97] Although retail funds did not have particularly heavy redemptions during the liquidity stress of March 2020, some retail prime funds participated in the MMLF, and it is impossible to know whether outflows would have continued absent official sector intervention that helped stabilize short-term funding markets.[98] We believe, however, that the significant increases to daily and weekly liquid asset thresholds we are proposing—which would have the largest effect on retail prime funds based on their average historical liquidity levels—should result in these funds being able to manage much heavier redemptions than they have experienced during any previous stress period.[99] As a result of the expected effect of the liquidity requirement changes, we do not believe that retail prime and tax-exempt money market funds need special provisions allowing them to impose liquidity fees or other analogous tools under rule 2a–7.

While the proposal would remove the liquidity fee provision in rule 2a–7, a money market fund's board of directors may nonetheless approve the fund's use of redemption fees (up to but not exceeding 2% of the value of shares redeemed) to eliminate or reduce as practicable dilution of the value of the fund's outstanding securities under rule 22c–2 under the Act.[100] As the Commission has previously recognized, rule 22c–2 is not limited to recouping costs associated with short-term trading strategies, such as market timing, and can be used to mitigate dilution arising from shareholder transaction activity generally, including indirect costs such as liquidity costs.[101] Although rule 22c–2 generally classifies money market funds as excepted funds that are not subject to the rule's requirements, the rule does not treat money market funds as excepted funds if they elect to impose redemption fees under the rule.[102] Thus, to the extent a money market fund's board determines that the ability to impose fees may be necessary to protect its investors, the board could establish a redemption fee approach to meet the needs of the fund, provided the fund otherwise complies with rule 22c–2 (*e.g.,* by entering into shareholder information agreements with intermediaries) and discloses information about the redemption fee in its prospectus in compliance with Form N–1A. If a money market fund elects to impose redemption fees under rule 22c–2, its process for determining when to

[90] *See, e.g.,* JP Morgan Comment Letter.

[91] *See, e.g.,* Federated Hermes Comment Letter I; Comment Letter of Federated Hermes, Inc. (June 1, 2021); Wells Fargo Comment Letter.

[92] *See, e.g.,* BlackRock Comment Letter (suggesting 10%); Dreyfus Comment Letter (suggesting 15%).

[93] JP Morgan Comment Letter; ICI Comment Letter I; Western Asset Comment Letter.

[94] Federated Hermes Comment Letter III.

[95] In contrast, the proposed swing pricing requirement discussed below would not require board action to impose costs on redeeming investors on a particular day and instead would connect the liquidity costs to the amount of net redemptions for that period, thus reducing the potential for a first-mover advantage or other timing misalignment between an investor's redemption activity and the imposition of liquidity costs.

[96] Vanguard Comment Letter.

[97] *See* 2014 Adopting Release, *supra* footnote 13, at section III.C.2.a.

[98] *See supra* footnote 36 (noting that 17 retail prime funds participated in the MMLF).

[99] *See infra* paragraph accompanying footnote 209 (explaining that while the proposal would require retail prime funds to maintain higher levels of liquidity than they have historically maintained on average, the resulting larger liquidity buffers would increase the likelihood that these funds can meet redemptions without significant dilution).

[100] *See* 17 CFR 270.22c–2 (rule 22c–2 under the Investment Company Act) (providing that an open-end fund may impose a redemption fee, not to exceed 2% of the value of the shares redeemed, upon the determination by the fund's board of directors that such fee is ''necessary or appropriate to recoup for the fund the costs it may incur as a result of those redemptions or to otherwise eliminate or reduce so far as practicable any dilution of the value of the outstanding securities issued by the fund''). We anticipate that retail prime and tax-exempt money market funds would be more likely to rely on rule 22c–2 to impose redemption fees than institutional prime and tax-exempt funds, as the institutional funds would be subject to a proposed swing pricing requirement to address dilution.

[101] *See* Mutual Fund Redemption Fees, Investment Company Act Release No. 26782 (Mar. 11, 2005) [70 FR 13328 (Mar. 18, 2005)]; Investment Company Swing Pricing, Investment Company Release No. 32316 (Oct. 13, 2016) [81 FR 82084 (Nov. 18, 2016)] (''Swing Pricing Adopting Release''), at paragraph accompanying n.26.

[102] *See* 17 CFR 270.22c–2(b).

apply a fee and in what amount generally should be designed to result in timely application of a fee to address dilution.

We request comment on our proposal to no longer permit or require money market funds to impose liquidity fees under rule 2a–7, including on the following:

6. Should we remove the liquidity fee provisions from rule 2a–7, as proposed? To what extent did the possibility of liquidity fees motivate investors' redemption decisions in March 2020? If liquidity fees are less of a concern for investors than redemption gates, would liquidity fee provisions, on their own, be less likely to contribute to preemptive redemptions in future stress periods? If so, are there advantages to retaining the current liquidity fee provisions and their connection to weekly liquid asset thresholds? If we retain the connection between liquidity fees and liquidity thresholds, what liquidity threshold should we use to permit a board to impose a liquidity fee (*e.g.,* the current 30% weekly liquid asset threshold or 10% daily liquid asset threshold, the 50% weekly liquid asset threshold or 25% daily liquid asset threshold we propose to use for purposes of funds' minimum liquidity requirements, or a lower threshold, such as 10% or 15% weekly liquid assets or 5% daily liquid assets)? How would changes to the liquidity threshold that allows a fund board to consider liquidity fees affect investor and fund behavior?

7. Rather than remove the current liquidity fee provisions, should we modify the circumstances in which a money market fund may impose liquidity fees? Should we permit a fund's board to impose liquidity fees when it determines that fees are in the best interests of the fund? Would a board use this tool in practice? What would be the impediments (if any) of the board making this determination? Would the board be able to act quickly enough to impose a fee so that redeeming investors bear the costs associated with their redemptions and do not have a first-mover advantage? Are there other ways we could achieve these goals through a liquidity fee framework? For example, would it be effective to require a fund to adopt board-approved policies and procedures that identify the circumstances in which the fund would impose a liquidity fee and how the fund would calculate the amount of the fee, without requiring in-the-moment board decisions or action? If so, what factors should those policies and procedures consider for purposes of when to impose a liquidity fee (*e.g.,* size of redemptions, liquidity of the fund's portfolio, market conditions, and transaction costs)? As another alternative, should we require a fund to adopt board-approved policies and procedures that result in a fund determining its liquidity costs each day it has net redemptions and applying those costs through a fee? Under either of these approaches, how should funds calculate the amount of a liquidity fee? Should this calculation method be the same as or similar to the calculation of a swing factor for purposes of our proposed swing pricing requirement or the Commission's current swing pricing rule applicable to other mutual funds? [103] Should the calculation account for factors that boards may consider in determining the level of a liquidity fee under the current rule, such as changes in spreads for portfolio securities (whether based on actual sales, dealer quotes, pricing vendor mark-to-model or matrix pricing, or otherwise); the maturity of the fund's portfolio securities; or changes in the liquidity profile of the fund in response to redemptions and expectations regarding that profile in the immediate future? [104] Should the liquidity fee take into account the market impact of selling the fund's securities to meet redemptions? [105] Should the liquidity fee be based on an assumption that the fund meets redemptions with its most liquid securities, a pro rata amount of each security in its portfolio, or only the securities the fund intends to use to meet redemptions? Should the liquidity fee be a set amount, such as 0.5%, 1%, or 2% of the value of the shares redeemed? Instead of a uniform fee amount, should the rule establish a default fee that funds could adjust upward or downward, as appropriate?

8. If we maintain a liquidity fee provision in the rule, should it apply only to institutional prime and tax-exempt funds, or should retail or government funds also be subject to the provision? What are the key distinguishing characteristics of the funds that would lead to differing approaches?

9. If we allowed or required funds to impose liquidity fees, are there other changes we should make to the current framework? For example, should we continue to limit the size of the liquidity fee to no more than 2% of the value of the shares redeemed? Are there circumstances in which the liquidity costs associated with meeting redemptions may exceed 2% of the value of the shares redeemed, such that increasing or removing the limit would better mitigate dilution?

10. If we adopted a modified liquidity fee framework that required funds to apply liquidity fees more frequently than is contemplated by the current rule, are there operational issues we would need to consider? For example, are intermediaries able to apply liquidity fees on a dynamic basis (*e.g.,* where liquidity fees vary in size and may apply more frequently than during periods of stress)?

11. Should we require money market funds to implement practices to mitigate investor dilution but permit money market funds to choose between imposing liquidity fees or imposing the proposed swing pricing approach as the method for doing so? Should we allow money market funds to choose other unspecified options for mitigating investor dilution? What are the advantages and disadvantages of these approaches? What factors would influence a fund's decision of whether to implement swing pricing, a liquidity fee framework, or another method of mitigating dilution?

12. Do money market funds view rule 22c–2 as a viable way to implement liquidity fees, if the board approves the use of such fees? Should we modify any of the requirements of rule 22c–2 or Form N–1A that relate to redemption fees for these funds? For example, should we specify that, like a liquidity fee under rule 2a–7, a money market fund redemption fee under rule 22c–2 does not need to be disclosed in the prospectus fee table? Would retail prime or retail tax-exempt funds opt to rely on rule 22c–2? Would institutional prime or institutional tax-exempt funds ever use rule 22c–2 in addition to the proposed swing pricing requirement and, if so, why?

B. Proposed Swing Pricing Requirement

1. Purpose and Terms of the Proposed Requirement

We are proposing a swing pricing requirement specifically for institutional prime and institutional tax-exempt money market funds that would apply when the fund experiences net

[103] *See infra* Section II.B.1 (discussing calculation of a swing factor under our proposal); 17 CFR 270.22c–1(a)(3)(i)(C) (describing calculation of a swing factor under the Commission's current swing pricing rule applicable to non-money market funds).

[104] *See* 2014 Adopting Release, *supra* footnote 12, at paragraph accompanying n.303.

[105] Market impact costs are costs incurred when the price of a security changes as a result of the effort to purchase or sell the security. Market impact costs reflect price concessions (amounts added to the purchase price or subtracted from the selling price) that are required to find the opposite side of the trade and complete the transaction.

redemptions.[106] This requirement is designed to ensure that the costs stemming from net redemptions are fairly allocated and do not give rise to a first-mover advantage or dilution under either normal or stressed market conditions.[107] The swing pricing requirement would complement our proposal to require funds to hold additional liquidity by requiring redeeming investors to pay the cost of depleting a fund's liquidity. Requiring swing pricing also would address a fund's potential reluctance to impose a voluntary liquidity fee even when doing so might be beneficial to the fund.

Swing pricing is a process of adjusting a fund's current NAV such that the transaction price effectively passes on costs stemming from shareholder transaction flows out of the fund to shareholders associated with that activity.[108] Trading activity and other changes in portfolio holdings associated with meeting redemptions may impose costs, including trading costs and costs of depleting a fund's daily or weekly liquid assets. These costs, which currently are borne by the remaining investors in the fund, can dilute the interests of non-redeeming shareholders. This can create incentives for shareholders to redeem quickly to avoid losses, particularly in times of market stress. If shareholder redemptions are motivated by this first-mover advantage, they can lead to increasing outflows, and as the level of outflows from a fund increases, the incentive for remaining shareholders to redeem may also increase. Regardless of whether investor redemptions are motivated by a first-mover advantage or other factors, there can be significant, unfair adverse consequences to remaining investors in a fund in these circumstances, including material dilution of remaining investors' interests in the fund. Swing pricing can reduce the potential for dilution of investors who choose to remain in the fund.

The proposed swing pricing requirement is designed to address these concerns. Under the proposal, an institutional fund would be required to adjust its current NAV per share by a swing factor reflecting spread and transaction costs, as applicable, if the fund has net redemptions for the pricing period.[109] If the institutional fund has net redemptions for a pricing period that exceed the ''market impact threshold,'' which would be defined as 4% of the fund's net asset value divided by the number of pricing periods the fund has in a business day, or such smaller amount of net redemptions as the swing pricing administrator determines, the swing factor would also include market impacts, as described below.[110] The ''pricing period'' would be defined, in substance, to mean the period of time in which an order to purchase or sell securities issued by the fund must be received to be priced at the next computed NAV. This is designed to address money market funds that compute their NAVs multiple times per day. For example, if a fund computes a NAV as of 12:00 p.m. and 4:00 p.m., the fund would determine if it had net redemptions for each pricing period and, if so, apply swing pricing for the corresponding NAV calculation.[111] Consistent with the approach taken by the Commission with respect to the swing pricing provision in rule 22c–1, an institutional fund with multiple share classes must determine whether it experienced net redemption activity across all share classes in the aggregate, rather than determining net redemption activity on a class by class basis.[112]

A mandatory swing pricing regime for net redemptions is intended to address funds' (or fund boards') likely reluctance to impose a voluntary swing pricing regime or voluntary liquidity fee. For example, while money market funds were permitted to impose liquidity fees on redeeming investors under rule 2a–7 if a fund had less than 30% of its assets invested in weekly liquid assets no money market fund imposed such fees during the March 2020 market turmoil. Moreover, even if all institutional money market funds recognized the benefits of charging redeeming investors for liquidity costs, we believe there is a collective action problem in which no fund would want to be the first to adopt such an approach. We believe past experience with the existing liquidity fee regime supports a mandatory approach to dilution mitigation for institutional funds.

The proposed swing pricing requirement would not apply to net subscriptions because, for money market funds, we believe net redemptions are more likely to contribute to dilution and other liquidity costs than net subscriptions. Institutional funds have come under significant stress twice in the last 13 years in the face of high levels of redemptions—significant subscriptions into these funds have not had similar effects. Beyond these considerations, we also recognize that applying our proposed swing pricing requirements to institutional fund subscriptions would require these funds to make certain assumptions about how they invest cash from new subscriptions that would be inconsistent with the requirements in rule 2a–7.[113]

Our proposed money market fund swing pricing framework specifies how an institutional fund would determine its swing factor, which would differ based on the amount of net redemptions (see Figure 1, below). The swing factor

[106] We refer to money market funds that are not government money market funds or retail money market funds collectively as ''institutional funds'' when discussing the proposed swing pricing requirement.

[107] The proposed swing pricing requirement differs in certain respects from the swing pricing provision in rule 22c–1, which does not apply to money market funds. We are proposing a swing pricing requirement specifically for institutional funds in rule 2a–7, rather than proposing amendments to rule 22c–1, because we are focused on money market fund reform in this release. The Fall 2021 Unified Agenda notes that the Division of Investment Management is considering recommending changes to regulatory requirements relating to open-end funds' liquidity and dilution management. *See* Securities and Exchange Commission, Fall 2021 Unified Agenda, *available at www.reginfo.gov*.

[108] While the term swing pricing typically refers to a process of adjusting a fund's NAV for either net redemptions or net subscriptions, the proposed swing pricing framework for money market funds would only apply when a fund has net redemptions.

[109] *See* proposed rule 2a–7(c)(2)(ii)(A). The proposal would implement the swing pricing requirement by requiring an affected money market fund to adopt swing pricing policies and procedures, approved by the fund's board and administered by a ''swing pricing administrator,'' as discussed in more detail below. In addition, and consistent with the Commission's current swing pricing rule (rule 22c–1), with respect to master-feeder funds, only the master fund can apply swing pricing under our proposed rule. *See* proposed rule 2a–7(c)(2)(v).

[110] *See* proposed rule 2a–7(c)(2)(iii)(B) and proposed rule 2a–7(c)(2)(vi)(B). *See infra* Section III.D.4 for a more detailed analysis of the proposed market impact threshold and potential alternative approaches.

[111] Under the proposal a fund may estimate shareholder flow information to determine whether the fund has net redemptions for a pricing period and to determine the amount of net redemptions, provided the swing pricing administrator receives sufficient investor flow information to make a reasonable estimate. Although institutional funds generally have more timely flow information than other kinds of open-end funds, we believe reasonable estimates are appropriate in the absence of complete flow information.

[112] *See* Swing Pricing Adopting Release, *supra* footnote 102, at paragraph accompanying n.175. If a fund were to only include the transaction activity of a single share class, and were to swing one share class and not another, one share class would pay expenses incurred in the management of the fund's portfolio as a whole, which would generally be inconsistent with rule 18f–3.

[113] For example, an institutional fund with weekly liquid assets below the regulatory threshold must invest only in weekly liquid assets and could not purchase a pro rata amount of each security in its portfolio, but our proposed swing pricing framework would require such a fund to assume the purchase of a pro rata amount of each portfolio holding if the framework extended to net subscriptions.

would be determined by calculating identified types of costs the fund would incur, as applicable, by selling a pro rata amount of each security in its portfolio to satisfy the amount of net redemptions for the pricing period.[114]

The requirement that a money market fund calculate costs to sell a pro rata amount of each security in its portfolio—a ''vertical slice'' of the portfolio—is designed to ensure that a fund's adjusted NAV incorporate the costs of selling its less liquid holdings, which may protect remaining shareholders from dilution and may discourage investors from redeeming quickly during periods of market stress to seek to avoid potential costs from a fund's future sale of less liquid securities.[115] For example, when investors redeem, if those redemptions are met through daily or weekly liquid assets, the redemptions leave the fund with less liquidity. This increases the likelihood that further redemptions could require the fund to sell less liquid assets or incur costs in rebalancing the portfolio. Although further redemptions may be more likely to require the fund to sell less liquid assets in times of market stress when redemptions may be elevated, redeeming investors depleting a fund's daily and weekly liquid assets can impose liquidity costs on the remaining shareholders as well as the fund generally, even during non-stressed periods. This depletion of a money market fund's liquidity can dilute the interests of remaining investors and also can create a first-mover advantage for investors who redeem in an attempt to avoid bearing the costs created by other investors' redemptions.

The factors a fund must take into account when calculating the swing factor vary depending on the size of net redemptions for the pricing period (see Figure 1, below). If the fund has net redemptions that do not exceed the market impact threshold, the swing factor reflects the spread costs and other transaction costs (*i.e.,* brokerage commissions, custody fees, and any other charges, fees, and taxes associated with portfolio security sales), as applicable, from selling a vertical slice of the portfolio to meet those net redemptions.[116] Including the spread cost in the swing factor calculation effectively requires a fund to value a security in its portfolio at the bid price when the fund has net redemptions. We understand that money market funds may already price portfolio securities at the bid price when striking their NAVs.[117] As a result, the requirement to adjust the fund's current NAV by a swing factor when it has net redemptions that do not exceed the market impact threshold would generally affect institutional funds that use mid-market pricing to compute their current NAVs.[118] Spread costs and other transaction costs associated with portfolio security sales also are included in the Commission's current swing pricing rule for non-money market funds. Those transaction-related costs can create dilution for money market funds just as they can for other kinds of funds, and we are including them in this proposal for the same reasons the Commission included them in the current swing pricing rule.[119]

If net redemptions exceed the market impact threshold, a fund's swing factor would also be required to include good faith estimates of the market impact of selling a vertical slice of a fund's portfolio to satisfy the amount of net redemptions for the pricing period. The fund would estimate market impacts for each security in its portfolio by first estimating the market impact factor. This factor is the percentage decline in the value of the security if it were sold, per dollar of the amount of the security that would be sold, under current market conditions. Then, the fund would multiply the market impact factor by the dollar amount of the security that would be sold if the fund sold a pro rata amount of each security in its portfolio to meet the net redemptions for the pricing period.[120]

We understand that it may be difficult to produce timely, good faith estimates of the market impact of selling a pro rata portion of each instrument the fund holds. Recognizing these difficulties, and because many securities held by institutional funds have similar characteristics and would likely incur similar costs if sold, the proposed rule would permit a fund to estimate costs and the market impact factor for each type of security with the same or substantially similar characteristics and apply those estimates to all securities of that type in the fund's portfolio, rather than analyze each security separately.[121] As part of this process, we believe it would be reasonable to apply a market impact factor of zero to the fund's daily and weekly liquid assets, since a fund could reasonably expect such assets to convert to cash without a market impact to fulfill redemptions (*e.g.,* because the assets are maturing shortly).

[114] *See* proposed rule 2a–7(c)(2)(iii). The swing factor is the amount, expressed as a percentage of the fund's net asset value, by which the fund adjusts its net asset value per share.

[115] As described in more detail below, a fund's swing pricing administrator may estimate costs and market impact factors for each type of security with the same or substantially similar characteristics and apply those estimates to all securities of that type rather than analyze each security separately.

[116] *See* proposed rule 2a–7(c)(2)(iii)(A). Put another way, the fund must take into account these factors if it has net redemptions in any amount. If a fund has net redemptions that exceed its market impact threshold, it must also apply a market impact factor.

[117] *See* FASB ASC 820–10–35–36C. Generally accepted accounting principles (''GAAP'') provide that if an asset measured at fair value has a bid price and an ask price (for example, an input from a dealer market), the price within the bid-ask spread that is most representative of fair value in the circumstances shall be used to measure fair value, and that the use of bid prices for asset positions is permitted but not required for these purposes.

[118] *See* FASB ASC 820–10–35–36D (stating that use of mid-market pricing as a practical expedient for fair value measurements within a bid-ask spread is not precluded). Very generally, mid-market pricing values a security at the average of its bid price and ask price. Since a seller generally asks for a higher price for a security than a buyer bids for that security, the mid-market price is incrementally higher than the bid price for a security, but lower than its ask price.

[119] Our proposed rule requires a money market fund to estimate the costs that would result from selling a vertical slice of its portfolio on a given day. Accordingly, our proposed rule does not incorporate the separate reference to near-term costs that is included in the general swing pricing rule. *See* 17 CFR 270.22c–1(a)(3)(i)(C).

[120] *See* proposed rule 2a–7(c)(2)(iii)(B).

[121] *See* proposed rule 2a–7(c)(2)(iii)(C). A fund could, for example, determine the liquidity, trading, and pricing characteristics of a subset of securities justifies the application of the same costs and market impact factor to all securities of that type within its portfolio.

Figure 1: Swing Pricing Process

Step	Result
1. Did the fund have net redemptions?	**No:** Do not apply a swing factor **Yes:** Proceed to next step
2. Did the net redemptions exceed the market impact threshold?	**No:** Apply swing factor that includes spread costs (if the fund uses midmarket pricing) and other transaction costs of selling a vertical slice of the fund's portfolio **Yes:** Apply swing factor that includes spread costs (if the fund uses midmarket pricing), other transaction costs, *and market impact factor* of selling a vertical slice of the fund's portfolio

We recognize that the market impact of selling a vertical slice of the fund's portfolio is likely to be negligible when net redemptions are small, and estimating the market impact of selling a security can be challenging. As a result, we are proposing to require funds to include market impact in their swing factors only when net redemptions exceed the market impact threshold. To establish the amount of net redemptions that should trigger application of the market impact factor, we reviewed historical flow information for institutional money market funds over a nearly five-year period.[122] During this time, institutional funds had daily outflows greater than 4% on approximately 5% of trading days.[123] At these heightened levels of outflows, market impacts are designed to estimate the full liquidity costs of selling a vertical slice of a money market fund's portfolio because, for a money market fund's less liquid investments, market impacts may impose significant costs on a fund, particularly when net redemptions are large or in times of stress. We also propose to allow the swing pricing administrator to apply a market impact factor at a lower amount of net redemptions. This flexibility is designed to recognize that there may be circumstances in which a smaller market impact threshold would be appropriate to mitigate dilution of fund shareholders, such as when a fund holds a larger amount of less liquid investments or in times of stress.[124] We believe a fund's swing pricing administrator, responsible for the day-to-day administration of the fund's swing pricing program and therefore familiar with the fund's redemption patterns and the operational requirements of the swing pricing program, would be well positioned to determine whether a smaller market impact threshold could be beneficial for the fund's investors to help mitigate dilution. To address the concerns the Commission expressed in 2016 that subjective estimates of market impact costs could grant excessive discretion in the determination of a swing factor, we also are providing additional parameters for estimating market impact to make the calculation more objective as discussed above.[125] These requirements should help to limit subjectivity that could be abused, and proposed recordkeeping rules would require funds to document their market impact factors, facilitating our staff's review and oversight of money market fund swing pricing.[126]

With respect to application of a swing factor, a fund with multiple share classes must use the same swing factor for each share class. Because the economic activity causing dilution occurs at the fund level, it would not be appropriate to employ swing pricing at the share class level to target such dilution.[127] In addition, when an institutional fund applies the swing factor to its net asset value, it must round the adjusted current net asset value per share to a minimum of the fourth decimal place in the case of a fund with a $1.0000 share price or an equivalent or more precise level of accuracy for money market funds with a different share price (*e.g.,* $10.000 per share, or $100.00 per share).[128]

We are not proposing an upper limit on a fund's swing factor. The Commission included a 2% upper limit in the current swing pricing rule in light of concerns that, without an upper limit, a fund's application of swing pricing could operate as a ''de facto gate'' or place an undue restriction on investors' ability to redeem.[129] We believe the more specific parameters in this proposal for determining a fund's swing factor sufficiently mitigate these concerns. Further, if a fund were to

[122] *See infra* Section III.D.4 for a more detailed analysis of the proposed market impact threshold and potential alternative approaches. The analysis is based on daily flows of institutional prime and institutional tax-exempt funds reported in CraneData on 1,228 days between December 2016 and October 2021. As of September 2021, CraneData covered 87% of the funds and 96% of total assets under management, resulting in a count of 37 institutional prime funds and 10 institutional tax-exempt funds.

[123] The proposed definition of market impact threshold would require a fund to divide 4% of the fund's net asset value by the number of pricing periods to arrive at the amount of net redemptions that would trigger the threshold. In recognition that some institutional funds have multiple pricing periods per day, and the number of pricing periods may vary among funds, this aspect of the definition is designed to provide a threshold that would apply more consistently to funds with different numbers of pricing periods, as opposed to a static figure applicable to all funds.

[124] For example, investors that invest in funds with less liquid portfolios may accept the risk of larger swings because they believe that the fund's less liquid portfolio could generate higher returns.

[125] *See* Swing Pricing Adopting Release, *supra* footnote 101, at paragraphs accompanying nn. 143 and 148. Specifically, a fund's market impact factor calculation for a security would reflect the percentage decline in the value of the security if it were sold, per dollar of the amount of the security that would be sold, under current market conditions, multiplied by the dollar amount of the security that would be sold if the fund sold a pro rata amount of each security in its portfolio to meet the net redemptions for the pricing period.

[126] *See* proposed rule 31a–2(a)(2).

[127] *See* Swing Pricing Adopting Release, *supra* footnote 101, at paragraph accompanying n.178.

[128] *See* proposed rule 2a–7(c)(1)(ii). This provision is designed to provide the same level of pricing precision that an institutional fund must calculate with respect to its floating NAV.

[129] Swing Pricing Adopting Release, *supra* footnote 102, at paragraph accompanying n.254.

experience such high costs, we believe it would be appropriate for redeeming investors to bear the costs their redemptions create for the benefit of remaining investors. Given our experience with investor behavior in March 2020, we also believe that requiring redeeming investors to internalize the liquidity costs of their redemptions would make investors consider potential redemption requests more carefully, particularly during periods of market stress, and would prevent remaining investors from bearing costs imposed on the fund by redeeming investors.

Finally, we are proposing several requirements related to the administration of the proposed swing pricing requirement. Specifically, a money market fund's swing pricing policies and procedures must be implemented by a board-designated administrator (the ''swing pricing administrator''), and the administration of the swing pricing program must be reasonably segregated from portfolio management of the fund and may not include portfolio managers.[130] The Commission's current swing pricing rule also requires the board to designate a swing pricing administrator and the administration of a swing pricing program that is reasonably segregated from portfolio management of the fund and may not include portfolio managers. We are proposing the requirement here for the same reasons the Commission adopted it in that rule: Requiring segregation of functions with respect to the administration of swing pricing will provide better clarity of roles and reduce the possibility of conflicts of interest in the administration of swing pricing.[131]

We also are proposing requirements to facilitate board oversight of swing pricing. A fund's board, including a majority of directors who are not interested persons of the fund, would be required to (1) approve the fund's swing pricing policies and procedures; (2) designate the swing pricing administrator; and (3) review, no less frequently than annually, a written report prepared by the swing pricing administrator describing the adequacy and effectiveness of the program.[132] We propose to amend rule 2a–7 to provide that a money market fund's board may not delegate its responsibilities to make the determinations that the proposed swing pricing provisions would require of the board.[133] The swing pricing administrator's report to the board would be required to describe (1) the administrator's review of the adequacy of the fund's swing pricing policies and procedures and the effectiveness of their implementation; (2) any material changes to the fund's swing pricing policies and procedures since the date of the last report; and (3) the administrator's review and assessment of the fund's swing factors and market impact threshold, including the information and data supporting the determination of the swing factors and the swing pricing administrator's determination to use a smaller market impact threshold, if applicable.[134] The proposal, like the Commission's current swing pricing rule, generally contemplates a board role in compliance oversight, rather than board involvement in the day-to-day administration of a fund's swing pricing program. Moreover, money market fund boards in particular have significant responsibilities regarding valuation- and pricing-related matters and should be well-positioned to provide effective oversight of the proposed swing pricing program. Accordingly, board approval of the swing pricing policies and procedures, and targeted review of the implementation of the fund's swing pricing program, will help ensure that swing pricing operates in the best interests of the fund's shareholders.

We are proposing recordkeeping requirements that are consistent with the requirements in our existing swing pricing rule. Specifically, a fund must maintain a written copy of the reports provided by the swing pricing administrator to the board for six years, the first two in an easily accessible place.[135] Similarly, existing recordkeeping requirements applicable to all money market fund procedures would require a fund to maintain its swing pricing policies and procedures for six years, the first two in an easily accessible place.[136]

Our proposed money market fund swing pricing framework considers and addresses the comments we received on the swing pricing option included in the PWG Report. Two of those comments supported a swing pricing requirement for money market funds.[137] One of these commenters suggested that swing pricing would directly address investor incentives for rapid redemptions from money market funds by ensuring that all investors who redeem are at risk for any losses created by a run, reducing or eliminating the incentive for early redemptions.[138] However, most commenters opposed a swing pricing requirement.[139] Several commenters suggested that swing pricing may not slow investor redemptions and would not have addressed the issues that occurred in March 2020.[140] One of these commenters suggested that imposing an additional cost through swing pricing would not materially affect investor behavior, particularly because an investor does not know at the time of placing its order whether the fund will adjust its NAV.[141] One commenter suggested that swing pricing may encourage investors to accelerate redemptions and seek a first-mover advantage.[142] Certain commenters also expressed concern that swing pricing would reduce investor interest in money market funds.[143]

[130] *See* proposed rule 2a–7(c)(2)(iv)(B) and proposed rule 2a–7(c)(2)(vi)(E). Consistent with the Swing Pricing Adopting Release, we believe that portfolio managers may have conflicts of interest with respect to setting the swing factor, and therefore we do not believe that they should be involved in setting the swing factor. *See* Swing Pricing Adopting Release, *supra* footnote 102, at paragraph accompanying n.293.

[131] Swing Pricing Adopting Release, *supra* footnote 102, at paragraph accompanying n.293.

[132] *See* proposed rule 2a–7(c)(2)(iv)(A) through (C).

[133] *See* proposed rule 2a–7(j). Rule 2a–7(j) permits a money market fund's board of directors to delegate to the fund's investment adviser or officers the responsibility to make the determinations required to be made by the board of directors under the rule, except for certain specified provisions.

[134] *See* proposed rule 2a–7(c)(2)(iv)(C)(*1*) through (*3*). The report to the board, which must be delivered no less frequently than annually, must include a description of the impact of the swing pricing program on eliminating or reducing liquidity costs associated with satisfying shareholder redemptions. The report must include the information and data that support the administrator's determination of the fund's swing factor each day.

[135] *See* proposed rule 2a–7(h)(8).

[136] *See* 17 CFR 270.2a–7(h)(1).

[137] Comment Letter of Robert Rutkowski (Apr. 13, 2021); Comment Letter of the Americans for Financial Reform Education Fund (Apr. 12, 2021) (''Americans for Financial Reform Comment Letter'').

[138] Americans for Financial Reform Comment Letter.

[139] *See, e.g.,* Fidelity Comment Letter; Western Asset Comment Letter; Comment Letter of the GARP Risk Institute (Mar. 16, 2021) (''GARP Risk Institute Comment Letter''); Healthy Markets Comment Letter; Comment Letter of PIMCO (Apr. 19, 2021) (''PIMCO Comment Letter''); SIFMA AMG Comment Letter; ICI Comment Letter I; Federated Hermes Comment Letter I; JP Morgan Comment Letter; BlackRock Comment Letter; Institute of International Finance Comment Letter; State Street Comment Letter; CCMC Comment Letter; T Rowe Price Comment Letter; Comment Letter of the Investment Company Institute (June 3, 2021) (''ICI Comment Letter III'').

[140] *See, e.g.,* Fidelity Comment Letter; Western Asset Comment Letter; GARP Risk Institute Comment Letter.

[141] Fidelity Comment Letter.

[142] Western Asset Comment Letter.

[143] BlackRock Comment Letter; GARP Risk Institute Comment Letter; Comment Letter of mCD IP Corporation (Apr. 12, 2021) (''mCD IP Comment Letter'').

We recognize that investors would not know at the time of order submission whether a fund would have net redemptions for that pricing period and swing the fund's price accordingly. However, we believe the implementation of a swing pricing regime for institutional funds may cause some investors in those funds to choose not to redeem, including in times of market stress, because those investors view the potential swing factor and price adjustment as more tangible than the uncertain possibility of potential future losses during times of reduced liquidity. We do not agree that, as some commenters suggested, a swing pricing requirement would encourage investors to preemptively redeem and seek a first-mover advantage.[144] Investors do not necessarily know whether the fund's flows during any given pricing period will trigger swing pricing or, if so, the size of the swing factor for that period. In addition, redeeming investors would bear the cost of liquidity under the proposed rule even when net redemptions are small, meaning that there would not be a clear advantage to redeeming earlier versus later. Rather than encourage preemptive redemptions, we believe the proposed swing pricing requirement would discourage excessive redemptions, particularly in times of stress, by requiring redeeming investors to bear liquidity costs. For example, investors may determine not to redeem during stress periods, or to redeem smaller amounts over a longer period of time, which could help reduce concentrated redemptions and associated liquidity pressures that institutional funds can face in times of stress. The swing pricing requirement also could cause some investors to move their assets to government money market funds, as certain commenters stated, to avoid the possibility of paying liquidity costs. Government money market funds may be a better match for investors unwilling to bear liquidity costs, however, in that government money market funds face lower liquidity costs. Even if for some investors the prospect of swing pricing does not alter redemption behavior on a particular day, we believe swing pricing results in fairer, non-dilutive pricing, particularly when there are heavy redemptions (even if the prospect of swing pricing does not materially change the level of those redemptions).

We recognize the Commission previously declined to extend swing pricing to money market funds.[145] In part, the Commission at that time believed that swing pricing was not necessary due to the extensive liquidity requirements applicable to such funds and the existing liquidity fee regime that is permitted under rule 2a–7.[146] However, our proposed reforms would remove the ability of money market funds to impose liquidity fees. In addition, although we are proposing to increase money market funds' liquidity requirements, based on our monitoring of the market stress in March 2020, we believe institutional money market funds may continue to have incentives to sell illiquid assets to meet redemptions in order to maintain a substantial buffer of liquid assets or may otherwise be required to sell illiquid assets in a stressed period. These incentives increase in times of stress but, as discussed above, a fund's sale of less liquid assets or depletion of daily and weekly liquid assets can create liquidity costs for the fund in both normal and stressed circumstances. We understand institutional investors frequently scrutinize liquidity levels in money market funds, and some portals through which they invest even have alerts to identify when a fund's reported liquidity levels decline, facilitating rapid redemptions when a fund's liquidity begins to decline. Thus, we believe that swing pricing would help institutional money market funds equitably allocate costs that may result from these redemptions and reduce other market externalities that increased liquidity requirements in our rules may not fully counter and that would no longer be countered by liquidity fees and redemption gates.

In addition to existing liquidity requirements and fee provisions, the Commission stated in 2016 that swing pricing may be less appropriate than a liquidity fee regime for money market funds because their investors, and particularly investors in stable NAV money market funds, are sensitive to price volatility.[147] We continue to believe that certain money market fund investors are sensitive to price volatility. Institutional money market funds are currently subject to a floating NAV requirement, however, and we do not believe that a swing pricing requirement would impose significant additional price volatility under normal market conditions.[148]

We considered a framework that would apply the swing factor in the form of a liquidity fee rather than an adjustment to the fund's price.[149] A liquidity fee could be used to impose liquidity costs on redeeming investors and address dilution, much like a swing pricing-related price adjustment. We recognize that a liquidity fee framework could have certain advantages over a swing pricing requirement. For example, liquidity fees provide greater transparency for redeeming investors of the liquidity costs they are incurring. Liquidity fees also provide a mechanism for imposing liquidity costs directly on redeeming investors, without providing a discount to subscribing investors through a downward adjustment of the fund's transaction price that also must be taken into account to fully address dilution. However, we believe that a swing pricing requirement also has several advantages over liquidity fees. With swing pricing, a fund can pass liquidity costs on to redeeming investors in a fair and equal manner, without any reliance on intermediaries to achieve fair and equal application of costs. While money market funds and their intermediaries should be able to apply liquidity fees under the current rule, we also believe applying dynamic liquidity fees that can change in size from pricing period-to-pricing period may involve greater operational complexity and cost than swing pricing. For instance, liquidity fees may require more coordination with a fund's service providers because these fees need to be imposed on an investor-by-investor basis by each intermediary involved—which may be particularly difficult with respect to omnibus accounts.[150] On balance, we believe a swing pricing requirement has operational advantages over liquidity fees, but we request comment on using a liquidity fee

[144] We are not aware of any evidence that the use of swing pricing in other jurisdictions has encouraged preemptive redemptions by investors.

[145] Swing Pricing Adopting Release, *supra* footnote 102, at section II.A.3.a.

[146] *Id. See also* 17 CFR 270.2a–7(c)(2) "Liquidity fees and temporary suspensions of redemptions."

[147] Swing Pricing Adopting Release, *supra* footnote 101, at n.77 and accompanying text.

[148] For example, as discussed above, we understand many institutional funds already use bid prices when valuing their portfolio investments and, thus, would not need to make additional price adjustments to reflect spread costs. In addition, based on historical flow data, we do not anticipate that funds would regularly experience net redemption amounts that trigger the market impact threshold.

[149] *See infra* Section III.D.5 (discussing our consideration of a liquidity fee alternative in more detail).

[150] Swing pricing, on the other hand, would require some funds and intermediaries to create new systems and operational procedures (discussed below), but once those are in place, swing pricing would be incorporated in the process by which a fund strikes its NAV. Intermediaries would then effect customer transactions at NAV, as they do today, without further operational changes or coordination with the fund. *See infra* Section III.D.5.

framework to impose liquidity costs and whether a liquidity fee alternative may have fewer operational or other burdens than the proposed swing pricing requirement while still achieving the same overall goals.[151] We also believe it is important for institutional funds to use a uniform approach to impose liquidity costs on redeeming investors, as we are concerned it would be confusing for investors if some funds applied swing pricing and other funds applied liquidity fees. In addition, we believe there are operational efficiencies with funds using a uniform approach under these circumstances.

Finally, we are not proposing to require retail money market funds to implement swing pricing because these funds historically have had smaller outflows than institutional funds during times of market stress, including during March 2020. As a result, based on historical experience, retail funds are less likely to have redemptions of a size that would deplete the increased liquidity buffers we are proposing to require. Retail investors also appear to focus less on a fund's reported liquidity levels.[152] Thus, retail fund managers may feel more comfortable drawing down available liquidity from the fund's daily liquid assets and weekly liquid assets to meet redemptions in times of stress, without engaging in secondary market sales that could result in significant liquidity costs. Investors typically view government money market funds, in contrast to prime money market funds, as a relatively safe investment during times of market turmoil, and government money market funds have seen inflows during periods of market instability. Government money market funds are also less likely to incur significant liquidity costs when they purchase or sell portfolio securities due to the generally higher levels of liquidity in the markets in which they invest. Due to these differences in investor behavior and liquidity costs among the various fund types, we are not proposing to require retail money market funds or government money market funds to implement swing pricing. Additionally, retail money market funds and government money market funds typically maintain a stable NAV. Investors in these funds, therefore, are accustomed to a stable NAV and may be more sensitive to price volatility. Requiring a retail or government money fund to adjust its NAV on any day it has net redemptions effectively would require these funds to operate with a floating NAV. We do not believe this is warranted in light of the differences in investor behavior and liquidity costs discussed above and the increased liquidity requirements we are proposing to apply to these funds.

We request comment on our proposal to require any money market fund that is not a government money market fund or a retail money market fund to implement swing pricing.

13. As proposed, should we require any money market fund that is not a government money market fund or a retail money market fund to implement swing pricing? Should we permit, but not require, these funds to implement swing pricing? If swing pricing were an optional tool, would money market funds use it? Would they be more likely to use optional swing pricing or optional liquidity fees, such as those which rule 2a–7 currently contemplates?

14. Should we adopt a framework that requires a fund to adjust its NAV for spread, other transaction costs, or market impacts only when net redemptions exceed a certain percentage of a money market fund's net assets? If so, should swing pricing apply only when a fund's net redemptions exceed the market impact threshold under the proposed rule? Should funds be able to set their own threshold?

15. Should we permit a money market fund to reasonably estimate whether it has net redemptions and the amount of net redemptions, as proposed, or should we require a fund to determine the actual amount of net redemptions during a pricing period? Are there operational complexities to this approach?

16. As proposed, should money market funds that strike NAV multiple times per day be required to determine whether the fund has net redemptions and, if so, the swing factor to apply for each NAV strike (*i.e.,* for each pricing period)? Are there alternative approaches we should consider? If so, how could such an approach ensure that investors are treated fairly?

17. Should we require swing pricing for both net redemptions and net subscriptions, or only for net redemptions, as proposed? If we require swing pricing for both net redemptions and net subscriptions, what additional operational complexities or other considerations might arise? If we required swing pricing for net subscriptions, should we require funds to assume the purchase of a vertical slice of the fund's portfolio and to value portfolio holdings at ask prices to reflect spread costs?

18. As proposed, should we require the swing factor to account for spread costs and other transaction costs if a fund's net redemptions are at or below the market impact threshold? What effect would this proposed requirement have on institutional funds that already use bid prices when striking their NAVs? Should we instead require an institutional fund to apply swing pricing when net redemptions are at or below the market impact threshold only if the fund does not price at the bid? What are the reasons a money market fund may not price at the bid currently? Do pricing services that money market funds use currently provide the option for funds to receive either mid or bid prices (or both)? Are there any impediments to a fund's ability to determine a bid price for each portfolio security? Should we remove or revise any of the cost categories that would apply when net redemptions are at or below the market impact threshold?

19. Should we require the swing factor to account for spread costs, other transaction costs, and market impacts if the amount of net redemptions exceeds the market impact threshold, as proposed? Should we remove or revise any of these cost categories? Do funds need additional guidance on any of these categories, such as application of the market impact factor? Would it be sufficient for funds experiencing net redemptions to apply a swing factor that accounts for spread costs and other transaction costs, but not market impacts? How effective would this approach be in achieving the objectives of swing pricing discussed throughout this release, including the goal of fairly allocating the costs stemming from net redemptions and preventing those costs from giving rise to a first-mover advantage or dilution?

20. Do some or all institutional funds already estimate market impact factors, or perform similar analyses, to inform trading decisions? If so, would these funds' prior experience smooth the transition to making a good faith estimate of the market impact factor under the proposal? What difficulties might funds experience in developing a framework to analyze market impact factors and in producing good faith estimates of market impact factors for purposes of the proposed swing pricing requirement? Are there ways we could reduce those difficulties, while still requiring redeeming investors to bear costs that reasonably represent the costs they would otherwise impose on the fund and its remaining shareholders?

[151] *See infra* Section II.B.2 for a discussion of the operational considerations related to swing pricing.

[152] *See supra* footnote 76 (discussing comments suggesting that retail investors were less sensitive to declines in weekly liquid assets in March 2020).

21. Should we define the market impact threshold as an amount of net redemptions for a pricing period that is the value of 4% of the fund's net asset value divided by the number of pricing periods, as proposed? Should the threshold at which a fund must include market impacts in its swing factor be higher or lower than proposed? In establishing the threshold amount, should we consider factors other than historical flows? Should the Commission periodically reexamine and adjust the market impact threshold to account for possible changes to redemption patterns and market behavior over time? If so, how often? Does identification of a specific threshold in rule 2a–7 raise gaming or other concerns?

22. Rather than a set percentage of net redemptions, as proposed, should we define the market impact threshold on a fund-by-fund basis, with reference to a fund's historical flows (*i.e.,* should each fund be required to determine the trading days for which it had its highest flows over a set time period, and set its market impact threshold based on the 5% of trading days with the highest flows)? Should we define the market impact threshold on a fund-by-fund basis with reference to another metric other than net redemptions?

23. Should we permit the swing pricing administrator to use discretion to establish a smaller market impact threshold, as proposed? Should we prescribe the circumstances in which a smaller market impact threshold would be permitted, the timing of such a determination by the swing pricing administrator (*e.g.,* if a swing pricing administrator must formally establish a smaller market impact threshold that will remain in place for a period of time), disclosure of such a determination to the fund's investors, and recordkeeping requirements in support of the determination? Should we require the fund's board, instead of the swing pricing administrator, to approve use of a smaller market impact threshold? Should the swing pricing administrator or the board have flexibility to establish a larger market impact threshold than proposed? If so, what are the circumstances in which a fund should have flexibility to use a market impact threshold that is larger than 4% of the fund's net asset value divided by the number of pricing periods?

24. Should money market funds be required to take into account other costs in determining their swing factors, beyond those proposed? For example, should we require consideration of borrowing costs that a fund may incur to facilitate shareholder redemptions?

25. Does our proposed requirement that a fund calculate the swing factor by assuming it would sell a pro rata amount of each security in its portfolio properly account for liquidity costs? Are there other considerations related to liquidity costs that the swing pricing framework should take into account, such as shifts in the fund's liquidity management or other repositioning of the fund's portfolio?

26. Should money market funds calculate the swing factor by estimating the costs of selling only the securities the fund plans to sell to satisfy shareholder redemptions during the pricing period, rather than calculating the swing factor based on the costs the fund would incur if it sold a pro rata amount of each security in its portfolio? If so, what would the operational consequences be?

27. Should the rule permit, rather than require, funds to follow the market impact threshold and swing factor calculations set forth in the rule? If so, what considerations or factors should the rule require a fund to consider when determining market impact thresholds and swing factors if the fund determines not to follow the threshold or calculations set forth in the rule? For example, should the rule identify for these purposes the size, frequency, and volatility of historical net redemptions; the liquidity of the fund's portfolio; or the costs associated with transactions in the markets in which the fund invests?

28. Should money market funds be subject to a numerical limit on the size of swing factors? Should the limit instead be bound only by liquidity costs associated with net redemptions for a given pricing period, as proposed? Should we allow a fund to use a set swing factor, such as 2% or 3%, in times of market stress when estimating a swing factor with high confidence may not be possible? How would we define market stress for this purpose? Should a fund's adviser, or a majority of the fund's independent directors, be permitted to determine market conditions were sufficiently stressed such that the fund would apply the set swing factor? Are there other circumstances in which we should permit a fund to use a default swing factor?

29. Should we permit a fund to estimate costs and market impact factors for each type of security with the same or substantially similar characteristics and apply those estimates to all securities of that type in the fund's portfolio, as proposed? Should we define types of securities with the same or substantially similar characteristics? Should we provide additional guidance to support funds' determinations as to whether securities have the same or substantially similar characteristics?

30. Is it reasonable to apply a market impact factor of zero to the fund's daily and weekly liquid assets? If not, should funds estimate the market impact factor of such assets in the same way as other assets under the rule, or should we prescribe a different methodology for such assets? Are there particular circumstances in which it would not be reasonable for a fund to use a market impact factor of zero for daily and weekly liquid assets, such as in stressed market conditions?

31. Instead of specifying swing factor calculations and thresholds in the rule, should we require a fund to adopt policies and procedures that specify how the fund would determine swing pricing thresholds and swing factors based on principles set forth in the rule? If so, should the policies and procedures include the methodologies from the market impact threshold calculation we proposed (*i.e.,* net redemptions that are at or above the 95th percentile of likely fund redemptions, determined based on relevant historical data)? Should the policies and procedures include the swing factor calculation (*i.e.,* the percentage decline in the value of the security, per dollar of the amount of the security that would be sold, multiplied by the dollar amount of the security that would be sold if the fund sold a pro rata amount of each security in its portfolio to meet the net redemptions for the pricing period)? Should the policies and procedures define the market impact threshold with reference to a metric other than net redemptions? If we require policies and procedures, should we specify the market impacts and dilution costs that a fund's swing pricing program must address, rather than specifying specific principles and calculation methodologies?

32. Should we require boards to appoint a swing pricing administrator? What individuals or entities are likely to fulfill the role of swing pricing administrator? Should we require board involvement in the day-to-day administration of a fund's swing pricing program in addition to its compliance oversight role? How might funds maintain segregation between portfolio management and swing pricing administration? Should a fund's chief compliance officer have a designated role in overseeing how the fund applies the proposed swing pricing requirement?

33. Should we require board review of a swing pricing report more or less

frequently than annually? Should we require an evolving level of board review over time (*e.g.,* every quarter for the first year after implementation and then less frequently in following years as the fund gains experience implementing the swing pricing program under various market conditions)? Should we require the fund to disclose any material inaccuracies in the swing pricing calculation to the board (*e.g.,* as they arise, no less frequently than quarterly, or at some other frequency)?

34. Are there circumstances in which it would not be possible to estimate the market impact factor with a high degree of accuracy? If so, what modifications should we make to the proposal? For example, should we instead adopt a liquidity fee framework that is consistent with the current liquidity fee provision in rule 2a–7, but without the link to weekly liquid asset thresholds?

35. How do the operational implications of swing pricing, as proposed, differ from the operational implications of an economically equivalent dynamic liquidity fee framework? What are the operational implications of a requirement for institutional money market funds to impose a liquidity fee that can change in size and that may need to be applied with some frequency? Are fund intermediaries equipped to apply dynamic fees on a regular basis? Would funds have insight into whether and how intermediaries apply these fees to redeeming investors?

36. If we adopt a liquidity fee framework instead of a swing pricing framework, should a fund be required to apply a liquidity fee under the same circumstances in which a fund would be required to adjust its net asset value under the proposed swing pricing requirement? Should a fund be required to use the same approach to calculating a liquidity fee as the proposed approach to calculating a swing factor? Alternatively, should different trigger events or calculation methods determine when a liquidity fee applies and the amount of such fee? [153]

37. If we adopt a liquidity fee framework instead of a swing pricing framework, should we adopt a simplified fee calculation methodology? If so, should the simplified liquidity fee framework be tied to the level of the fund's net redemptions, the liquidity of its portfolio holdings, or some other input? Should the simplified liquidity fee be a set percentage (*i.e.,* a 1% fee), or should the fee increase as redemptions, illiquidity, or other variables increase?

38. Should we permit or require retail or government money market funds to implement swing pricing? Would retail or government money market funds have access to sufficient flow information to apply swing pricing, or would changes to current order processing methods be needed to facilitate access to sufficient flow information?

39. Will our proposed swing pricing requirement cause investors to move their assets out of the funds that must implement a swing pricing program to funds that do not, such as government money market funds or short term bond funds? What are the potential costs and benefits associated with these decisions?

40. Should we provide any exclusions from the proposed swing pricing requirement for institutional funds? For example, should we provide an exclusion from the swing pricing requirement for affiliated money market funds created by an adviser for the purpose of efficiently managing cash across accounts within its advisory complex and not available to other investors?

41. Will swing pricing reduce the threshold effects that stem from investors seeking to redeem in advance of a liquidity fee or gate? Will swing pricing cause some investors to choose not to redeem because the potential swing factor and price adjustment may be more tangible than the uncertain possibility of potential future losses during periods of market stress?

42. Will swing pricing protect money market fund investors that remain in the fund from dilution when the fund fulfills net shareholder redemptions? Would the increased liquidity requirements that we are proposing provide adequate protection from dilution without swing pricing? Should we impose additional liquidity requirements for institutional prime and institutional tax-exempt as an alternative to swing pricing?

43. How might swing pricing affect investor behavior in a period of liquidity stress? Will swing pricing increase money market fund resilience by reducing the first mover advantage that some investors may seek during periods of market stress? Will swing pricing encourage investors to redeem smaller amounts over a longer period of time because investors will not know whether the fund's flows during any given pricing period will trigger swing pricing and, if so, the size of the swing factor for that period?

44. Based on historical data, how would our swing pricing framework affect money market funds' NAVs under normal market conditions?

45. Rather than requiring institutional funds to adopt a swing pricing requirement, should we provide more than one approach to mitigate dilution in rule 2a–7 and require each institutional fund to determine its own preferred approach? If so, what approaches should the rule provide? Should we, for example, allow a fund either to adopt swing pricing or a liquidity fee? Are there other options that would be appropriate under this approach? Should non-institutional funds be permitted or required to adopt an anti-dilution approach? Would funds' use of different approaches benefit investors by increasing investor choice or, conversely, would these differences confuse investors or make it more difficult for them to compare money market funds with each other?

2. Operational Considerations

Many investors use institutional money market funds as a cash management vehicle, and money market funds provide operational efficiencies to serve those investors. Institutional money market fund transactions often settle on the same day that an investor places a purchase or sell order, which has made these funds an important component of systems for processing and settling various types of transactions. Some institutional money market funds also provide shareholders with intraday liquidity and same-day settlement by pricing fund shares periodically during the day (*e.g.,* at 11 a.m. and 4 p.m.).

Many commenters opposed swing pricing due to operational issues, some of which are unique to money market funds.[154] For example, several commenters stated swing pricing is currently impractical because intermediaries typically report flows with a delay, so funds would not be able to determine net shareholder flows in time to apply a swing factor to the fund's net asset value, as needed.[155] One commenter suggested that a move from T+0 to T+1 settlement for money market fund subscriptions and redemptions could make it difficult for

[153] We also request comment on such liquidity fee alternatives in Section II.A.3.

[154] *See, e.g.,* Healthy Markets Comment Letter; PIMCO Comment Letter; SIFMA AMG Comment Letter; ICI Comment Letter I; ICI Comment Letter III; Western Asset Comment Letter; Fidelity Comment Letter; State Street Comment Letter (expressing the view that swing pricing can be a valuable liquidity management tool, but it is not easily applicable to money market funds due to operational issues).

[155] *See, e.g.,* ICI Comment Letter I; PIMCO Comment Letter; Fidelity Comment Letter; Federated Hermes Comment Letter I.

money market funds to act as sweep vehicles and could affect their status as cash equivalents.[156] Some commenters asserted that swing pricing works better in Europe due to fundamental differences between fund operations in the U.S. and Europe (*i.e.,* earlier trading cut-off times, greater use of currency-based orders versus share- or percentage-based transactions, and more direct-sold funds).[157] Several commenters expressed concern that intraday liquidity and/or same-day settlement would not be available to investors if money market funds were required to implement swing pricing.[158] In addition, many commenters also asserted that there would be significant costs and burdens from implementing systems to accommodate swing pricing.[159]

We acknowledge that swing pricing will introduce new operational complexity to institutional money market funds. A fund must determine whether it has net redemptions, and the size of those net redemptions, for the pricing period prior to striking its NAV, and this determination would need to be completed multiple times per day for funds that strike their NAV multiple times per day. However, institutional money market funds often impose order cut-off times that ensure that they receive flow data prior to striking their NAV.[160] Therefore, we believe many of them would have the necessary flow information to determine if there are net redemptions and the amount of those net redemptions.[161] This is in contrast to other open-end mutual funds, which may receive purchase and redemption requests from fund intermediaries even after the fund has struck its NAV. Due to the cut-off times that many institutional money market funds impose, we believe these money market funds would not be subject to significant operational impediments with respect to having timely flow information to inform swing pricing decisions. However, if an institutional money market fund does not impose order cut-off times, such a fund may face additional operational complexity and costs to implement a cut-off time or otherwise gather the necessary information to determine whether it has net redemptions.

In addition, if a fund has net redemptions, it would be required to calculate and apply the swing factor to the NAV prior to processing any shareholder transactions. Funds that strike their NAV multiple times per day may also need to calculate and apply a swing factor multiple times per day. We acknowledge that the proposed swing pricing requirement would impose additional administrative burdens and costs that money market funds do not face under current regulation, particularly if net redemptions exceed the market impact threshold or if the fund currently values its securities at the midpoint when striking its NAV. In addition, while we recognize that the need to calculate and apply a swing factor could delay a fund's ability to determine the transaction price, we believe it is unlikely that these delays would result in funds having to settle transactions on T+1, instead of T+0. We do not believe T+1 settlement is a likely result of the proposed swing pricing requirement because funds could take steps to maintain their ability to offer same-day settlement if they believe this type of settlement is important to institutional investors. For example, if necessary, relevant funds could choose to move their last NAV strike to an earlier point in the day.[162] Similarly, we understand that the proposed swing pricing requirement could cause relevant funds to reduce the number of NAV strikes they offer each day. For example, a fund may determine that instead of offering three or four separate NAV strikes each day, it may only offer one or two NAV strikes to ease implementation of the proposed swing pricing requirement. As a general matter, to the extent these operational changes are necessary, we believe they are warranted to address investor harm and dilution that occurs when redeeming investors reduce the fund's liquidity and impose other costs on remaining investors.

Prior money market fund reforms required institutional money market funds to adopt a floating NAV. This requirement can introduce some variability to a fund's NAV, particularly during times of market stress. In the years since the implementation of the floating NAV requirement, most institutional money market funds have typically been able to maintain a floating NAV that remains close to $1.0000 or another value chosen by the fund.[163] The addition of a swing pricing requirement could introduce greater variability to a fund's NAV, particularly during volatile periods. For example, a fund's NAV could float downward if the markets for its portfolio securities becomes more illiquid and it has sizeable net redemptions, and the application of a swing factor at such a time would cause additional variation in the fund's NAV for shareholders that transact on that day. This variability may reduce the appeal of institutional money market funds as cash management tools if investors seek alternative investment options that are not subject to fluctuation in value at times of market stress. Further, while one commenter expressed concern that a swing pricing requirement would affect money market funds' use in sweep arrangements, it is our understanding that institutional prime and tax-exempt money market funds currently are not used in sweep arrangements.[164]

We request comment on the operational impact of our proposed swing pricing requirement, including:

46. Are there key operational impediments with the proposed swing pricing approach? Are there key inputs for the swing factor calculation, including the market impact factor, that are operationally and prohibitively difficult to ascertain within the time period needed to calculate the swing factor? Are there key inputs that are not operationally complex to obtain?

47. Are there instances in which an institutional money market fund permits intermediaries to submit subscription or redemption requests after the fund's cut-off time and to receive the NAV calculated for that cut-off time, as long as the intermediary received the order prior to the fund's

[156] JP Morgan Comment Letter.

[157] PIMCO Comment Letter; Fidelity Comment Letter; BlackRock Comment Letter.

[158] *See, e.g.,* ICI Comment Letter I; SIFMA AMG Comment Letter; Western Asset Comment Letter; Federated Hermes Comment Letter I; JP Morgan Comment Letter; Institute of International Finance Comment Letter; Comment Letter of the Committee on Capital Markets Regulation (May 24, 2021) (''CCMR Comment Letter'').

[159] *See, e.g.,* SIFMA AMG Comment Letter; JP Morgan Comment Letter; GARP Risk Institute Comment Letter.

[160] Based on a 2021 staff analysis of information from CraneData, a majority of the prime institutional money market funds that impose an order cut-off time impose a 3:00 p.m. deadline for same-day processing of shareholder transaction requests.

[161] *See* proposed rule 2a–7(c)(2)(ii)(A) (permitting reasonable high confidence estimates of investor flows to determine whether a fund has net redemptions).

[162] We understand that, to offer same-day settlement, funds must be able to complete Fedwire instructions before the Federal Reserve's 6:45 p.m. ET Fedwire cut-off time. *See, e.g.,* ICI Comment Letter I. Moving the last NAV strike to a somewhat earlier point in the day would provide the fund with additional time to calculate and apply its swing factor and take other necessary steps prior to the Fedwire cut-off time.

[163] For example, some funds maintain a floating NAV that remains close to some other amount, such as $100.00.

[164] Based on analysis of information from CraneData. *See* JP Morgan Comment Letter (discussing the operational complexities of swing pricing for money market funds that are used in sweep platforms).

cut-off time? If so, when do such instances occur, and how frequently?

48. If institutional money market funds do not receive information about subscription or redemption requests early enough to make swing pricing decisions prior to striking NAV, are there rule-based solutions that could improve the timing considerations regarding shareholder flows and swing pricing (*e.g.,* by requiring intermediaries to provide earlier flow information to funds or by requiring specific cut-off times for transaction requests)?

49. What proportion of institutional prime and institutional tax-exempt money market funds use mid-market pricing? Would such funds incur greater operational costs than a fund that uses bid pricing to estimate the spread costs the fund would incur to sell a vertical slice of its portfolio?

50. Do commenters agree with our assessment that institutional prime and institutional tax-exempt money market funds could still offer same-day settlement if they are required to implement swing pricing? If not, how would swing pricing affect the ability of institutional money market funds to settle transactions on a T+0 basis? If these funds instead settle transactions on a T+1 basis, how might this affect investors?

51. How might swing pricing affect the ability of institutional money market funds to offer multiple NAV strikes per day? How many institutional money market funds will reduce the number of times they strike their NAV if we adopt swing pricing as proposed? How might investors be affected if these funds are no longer able to offer multiple NAV strikes, or as many NAV strikes, per day?

52. Should we require all money market funds, including stable NAV money market funds, to adopt a floating NAV and to implement swing pricing?

53. Will investors seek alternative cash management investment options that are not subject to fluctuation in value at times of market stress to avoid the additional NAV variability that results from swing pricing? If so, which alternatives are investors most likely to use?

54. Are institutional prime and tax-exempt money market funds used in cash sweep arrangements?

55. What other operational changes would be required for funds to implement our swing pricing requirement as proposed?

3. Tax and Accounting Implications

When the Commission adopted the floating NAV requirement for all prime and tax-exempt money market funds sold to institutional investors in 2014, the Treasury Department amended its regulations to clarify money market funds' reporting obligations.[165] The Commission, the Treasury Department, and the IRS recognized the difficulties and costs associated with requiring floating NAV money market funds to comply with then-existing tax reporting requirements, and the amended Treasury regulations permit shareholders of floating NAV money market funds to use the ''NAV method'' to report gains and losses.[166] This method allows investors to aggregate gains and losses for the calendar year on their tax returns, rather than reporting individual transactions. The Treasury Department and the IRS also clarified that the ''wash sale'' rule does not apply to redemptions in floating NAV money market funds.[167] The Commission staff will continue discussions with the staff of the Treasury Department and IRS regarding the tax consequences of the proposed swing pricing requirement, including any implications for an investor's use of the NAV method of accounting for gain or loss on shares in a floating NAV money market fund or the exemption from the wash sale rules for redemptions of shares in these funds. We recognize that if the proposed swing pricing requirement modifies the method of accounting for gains or losses in relevant money market fund shares, or has other tax implications, the tax reporting effects of the proposed swing pricing requirement could increase burdens for investors.

From an accounting perspective, when institutional money market funds were required to adopt a floating NAV, the Commission stated its belief that an investment in a money market fund with a floating NAV would meet the definition of a ''cash equivalent'' for accounting purposes.[168] One commenter expressed concern that a swing pricing requirement could result in money market funds no longer qualifying as cash equivalents.[169] For the same reasons discussed in connection with the 2014 reforms, we believe the adoption of swing pricing would not preclude shareholders from classifying their investments in money market funds as cash equivalents. Under normal circumstances, we believe an investment in a money market fund that applies swing pricing under our proposed rule would qualify as a ''cash equivalent'' for purposes of U.S. GAAP.[170] Under normal circumstances, we anticipate that fluctuations in the amount of cash received upon redemption from a fund that applies swing pricing would likely be small and would be consistent with the concept of a ''known'' amount of cash. However, as already exists today and, as noted by the Commission in 2014, events may occur that give rise to credit and liquidity issues for money market funds. If such events occur, shareholders would need to reassess if their investments in that money market fund continue to meet the definition of a cash equivalent.[171] This is already the case absent swing pricing, but we recognize that swing pricing may result in larger fluctuations in a fund's share price during such periods of stress.

Consistent with the approach the Commission established for mutual fund swing pricing, the proposed swing pricing requirement for institutional money market funds would affect certain aspects of financial reporting, as these funds would need to distinguish between the GAAP NAV per share and the transactional price adjustment to the NAV per share resulting from swing pricing (''swung price'').[172] The GAAP NAV per share is the amount of net assets attributable to each share of capital stock outstanding at the close of the period, and the swung price (if the NAV per share is adjusted due to swing pricing at period end) would represent the transactional price on the last day of the period, which is the NAV per share on the day with an adjustment by the swing factor.[173] Money market funds would disclose the GAAP NAV per share (which will reflect the effects of swing pricing throughout the reporting period, if applicable) on the statement of assets and liabilities. This allows users of the financial statements to understand the actual amount of net assets attributable to the fund's

[165] Treas. Reg. § 1.446–7.

[166] Treas. Reg. § 1.446–7.

[167] *See* Rev. Proc. 2014–45 (2014–34 IRB 388) and Method of Accounting for Gains and Losses on Shares in Money Market Funds; Broker Returns With Respect to Sales of Shares in Money Market Funds, RIN 1545–BM04 (June 15, 2016) [81 FR 44508 (July 8, 2016)] at 44511. Very generally, the wash sale rule prevents taxpayers from taking an immediate loss from the sale of securities if substantially identical securities are purchased within six months of the sale.

[168] 2014 Adopting Release, *supra* footnote 12, at section VI (amending the ''Codification of Financial Reporting Policies'' announced in Financial Reporting Release No. 1 (Apr. 15, 1982)).

[169] JP Morgan Comment Letter.

[170] *See* FASB Accounting Standards Codification Master Glossary, *available at https://asc.fasb.org/glossary*.

[171] *See* 2014 Adopting Release, *supra* footnote 12, at paragraph accompanying n.428.

[172] *See* Swing Pricing Adopting Release, *supra* footnote 102, at section II.A.3.g.

[173] *See* 17 CFR 210.6–04.19 and FASB ASC 946–10–20 (discussing the concept of the GAAP NAV); Swing Pricing Adopting Release, *supra* footnote 102, at section II.A.3.g.

remaining shareholders at period end.[174] A money market fund using swing pricing would, however, include the impact of swing pricing in its financial highlights, and the per share impact of amounts retained by the fund due to swing pricing should be included in the fund's disclosures of per share operating performance.[175] Swing pricing also affects disclosure of capital share transactions included in a fund's statement of changes in net assets.[176] Finally, a money market fund using swing pricing would be required to disclose in a footnote to its financial statements: (1) The general methods used in determining whether the fund's NAV per share will be adjusted due to swing pricing; (2) whether the fund's NAV per share has been adjusted by swing pricing during the period; and (3) a general description of the effects of swing pricing on the fund's financial statements.[177]

We request comment on the tax and accounting implications of our proposed swing pricing requirement, including:

56. Would swing pricing impose additional complications with respect to the tax treatment of floating NAV money market fund investments? If so, how could we address such complications?

57. Would the implementation of swing pricing for institutional money market funds affect the treatment of shares of such funds as ''cash equivalents'' for accounting purposes? Would a cap on the swing factor, such as a 2% cap, reduce uncertainty about the treatment of institutional money market fund shares as ''cash equivalents''?

58. Should the financial reporting effects of swing pricing differ for money market funds, as opposed to other types of mutual funds?

59. Are there other tax or accounting implications of institutional money market funds using swing pricing that we should address?

4. Disclosure

Form N–1A is used by open-end funds, including money market funds and ETFs, to register under the Investment Company Act and to register offerings of their securities under the Securities Act. Form N–1A currently requires a fund to describe its procedures for pricing fund shares, including an explanation that the price of fund shares is based on the fund's NAV and a description of the method used to value fund shares.[178] In 2016, when the Commission adopted the swing pricing rule for open-end funds that are not money market funds or ETFs, it adopted amendments to Item 6 of Form N–1A to enhance disclosure of an open-end fund's swing pricing procedures.[179] Under our proposal, institutional money market funds would be required to implement swing pricing policies and procedures and therefore would be required to comply with the swing pricing-related requirements of Form N–1A, described in greater detail below.

Money market funds subject to a swing pricing requirement under our proposal also would be required to respond to the existing swing pricing-related items on Form N–1A that were not historically applicable to these funds. Specifically, the form requires a fund to include a general description of the effects of swing pricing on the fund's annual total returns as a footnote to its risk/return bar chart and table.[180] Form N–1A also requires a fund that uses swing pricing to explain the fund's use of swing pricing, including its meaning, the circumstances under which the fund will use it, and the effects of swing pricing on the fund and investors.[181] While Form N–1A requires other funds that use swing pricing to disclose a fund's swing factor upper limit, we are proposing to exclude money market funds from this requirement because our proposal does not require these funds to establish a swing factor upper limit.[182]

Money market funds use Form N–MFP to report key information to the Commission each month. As part of our swing pricing framework for money market funds, we propose to amend Form N–MFP to require money market funds that are not government funds or retail funds to use their adjusted NAV, as applicable, for purposes of reporting the series- and class-level NAV per share.[183] We also propose to require these funds to report the number of times the fund applied a swing factor over the course of the reporting period, and each swing factor applied.[184] Together, these reporting requirements would help the Commission monitor the size of the adjustments funds are making during normal and stressed market conditions, as well as the frequency at which funds apply swing factor adjustments.

Under current rule 2a–7, money market funds are required to provide on their websites the money market fund's net asset value per share as of the end of each business day during the preceding six months. This disclosure must be updated each business day as of the end of the preceding business day.[185] We are proposing to amend this provision to require money market funds that are not government funds or retail funds to depict their adjusted NAV, taking into account the application of a swing factor.[186] We believe that, when a fund applies swing pricing, the adjusted NAV is more useful for investors because it represents the price at which transactions in the fund's shares occurred.

We request comment on swing pricing disclosure requirements as applicable to money market funds, including:

60. Are the existing swing pricing-related disclosure obligations on Form N–1A appropriate for money market funds? In addition to the question regarding the swing factor's upper limit, are there other existing obligations that should not be applied to money market funds?

61. Would more information be useful to shareholders or other market participants? If so, what additional information should we require to be disclosed on Form N–1A, Form N–MFP, or elsewhere (*e.g.,* fund websites or other marketing materials)? When should we require such disclosure?

62. Should we require institutional funds to report the number of times the fund applied a swing factor and each swing factor applied, as proposed? Should we require the median, highest, and lowest (non-zero) swing factor applied for each reporting period on Form N–MFP, rather than requiring

[174] *See* Swing Pricing Adopting Release, *supra* footnote 102, at section II.A.3.g.

[175] *See* Item 13 of Form N–1A (requiring disclosure of the swung price per share, if applicable, as a separate line item below the ending GAAP NAV per share on the financial highlights); FASB ASC 946–205–50–7 (requiring specific per share information to be presented in the financial highlights for registered investment companies, including disclosure of the per share amount of purchase premiums, redemption fees, or other capital items).

[176] *See* 17 CFR 210.6–09.4(b). This rule requires funds to disclose the number of shares and dollar amounts received for shares sold and paid for shares redeemed. For funds that implement swing pricing, Regulation S–X would require the dollar amount disclosed to be based on the NAVs used to process investor subscriptions and redemptions, including those processed using swung prices during the reporting period.

[177] *See* rule 6–03(n) of Regulation S–X.

[178] *See* Item 11(a)(1) of Form N–1A.

[179] *See* Swing Pricing Adopting Release, *supra* footnote 102, at section II.B.1.

[180] Items 4(b)(2)(ii) and (iv) of Form N–1A.

[181] Item 6(d) of current Form N–1A.

[182] Item 6(d) of proposed Form N–1A.

[183] *See* Items A.20 and B.5 of current Form N–MFP; Items A.20 and B.6 of proposed Form N–MFP. As discussed below, we are also proposing to amend these current reporting requirements to require funds to provide series- and class-level NAVs per share as of the close of each business day, rather than as of the close of business on each Friday during the month reported. *See infra* Section II.F.2.c.

[184] *See* Item A.22 of proposed Form N–MFP.

[185] 17 CFR 270.2a–7(h)(10)(iii).

[186] *See* proposed rule 2a–7(h)(10)(iii).

disclosure of each swing factor applied? Should we require these funds to provide additional information about swing pricing in their monthly reports on Form N–MFP, such as the swing pricing administrator's determination to use a lower market impact threshold (if applicable)? Should we separately require funds to disclose information about market impact factors, such as how many times a market impact factor was included in the swing factor each month and the size of those market impact factors (*e.g.,* either the size of any market impact factor applied, or the median, highest, and lowest (non-zero) amount)?

63. As proposed, should we require an institutional fund to use its adjusted NAV, as applicable, for purposes of current requirements to disclose a fund's NAV on its website and the series- and class-level NAV disclosure requirements on Form N–MFP? Should we require an institutional fund to indicate, for each NAV reported, whether a swing factor was applied (*i.e.,* whether the NAV was ''adjusted'')? As an alternative to reporting the adjusted NAV, should we provide that the website and Form N–MFP NAV disclosures should not include a swing factor adjustment? If so, why would the unadjusted NAV be more useful for these purposes? Alternatively, should we require an institutional fund to disclose both its adjusted NAV and its unadjusted NAV on the fund's website or on Form N–MFP? What are the advantages and disadvantages of requiring funds to disclose both figures?

64. Requirements to disclose NAVs per share on fund websites and on Form N–MFP require NAVs per share as of the close of business on a given day, while some funds may have multiple pricing periods and multiple NAVs each day. Should we require a fund to disclose its NAV per share for each pricing period, instead of the end-of-day NAV per share only? Would this additional transparency be helpful for investors, or would it make NAV disclosure less useful for investors by increasing the number of data points without significantly improving the value of the data?

65. Will daily website disclosure of fund flows and the adjusted NAV facilitate gaming of swing pricing or preemptive runs by investors that wish to redeem in advance of a fund imposing a swing factor on a particular day? If so, how? Are there changes we should make to reduce the potential for gaming?

C. Amendments to Portfolio Liquidity Requirements

1. Increase of the Minimum Daily and Weekly Liquidity Requirements

Currently, rule 2a–7 requires that a money market fund, immediately after acquisition of an asset, hold at least 10% of its total assets in daily liquid assets and at least 30% of its total assets in weekly liquid assets.[187] Assets that make up daily liquid assets and weekly liquid assets are cash or securities that can readily be converted to cash within one business day or five business days, respectively.[188] These requirements are designed to support funds' ability to meet redemptions from cash or securities convertible to cash even in market conditions in which money market funds cannot rely on a secondary or dealer market to provide liquidity.[189]

In March 2020, significant outflows from prime funds caused general reductions in these funds' daily liquid assets and weekly liquid assets. Although only one institutional prime fund reported weekly liquid assets below the 30% threshold, it is likely that other funds would have breached daily liquid asset or weekly liquid asset thresholds at the time if they had used daily liquid assets or weekly liquid assets to meet redemptions. As previously discussed, because the fee and gate provisions in rule 2a–7 incentivized funds to maintain weekly liquid assets above 30%, many funds took other actions (*e.g.,* selling longer-term assets or receiving financial support) to meet redemptions and remain above the minimum liquidity threshold. Some funds experienced redemption levels that would have depleted required levels of daily liquid assets or weekly liquid assets, if they had been used. For example, the largest weekly outflow in March 2020 was around 55%, and the largest daily outflow was about 26% (both well above the respective weekly liquid asset and daily liquid asset thresholds of 30% and 10%).[190] Further, since the fee and gate provisions in rule 2a–7 incentivized funds to maintain weekly liquid assets above the current threshold, the proposed removal of the fee and gate provisions from rule 2a–7 could have the effect of reducing fund liquidity levels by eliminating such incentives. Accordingly, we are proposing to increase daily and weekly liquid asset requirements to 25% and 50%, respectively.[191] We believe that these increased thresholds will provide a more substantial buffer that would better equip money market funds to manage significant and rapid investor redemptions, like those experienced in March 2020, while maintaining funds' flexibility to invest in diverse assets during normal market conditions.

Several commenters supported increasing the minimum liquidity requirements, believing that such increases could make money market funds more resilient during times of market stress.[192] Several commenters acknowledged that historically, most prime money market funds have maintained liquidity levels well above the regulatory minimums in normal market conditions.[193] Some commenters asserted that raising the thresholds to the levels that most funds already maintain would provide a more sufficient liquidity buffer.[194] One commenter suggested that requiring sufficiently higher weekly liquid asset levels would provide investors with confidence that funds hold adequate liquidity during periods of market uncertainty, thereby reducing the

[187] *See* 17 CFR 270.2a–7(d)(4)(ii) and (iii) (rule 2a–7(d)(4)(ii) and (iii)); *see also supra* footnote 22 and accompanying paragraph. Tax-exempt money market funds are not subject to the daily liquid asset requirements due to the nature of the markets for tax-exempt securities and the limited supply of securities with daily demand features. *See* 2010 Adopting Release, *supra* footnote 20, at n.243 and accompanying text.

[188] Daily liquid assets are: Cash; direct obligations of the U.S. Government; certain securities that will mature (or be payable through a demand feature) within one business day; or amounts unconditionally due within one business day from pending portfolio security sales. *See* rule 2a–7(a)(8). Weekly liquid assets are: Cash; direct obligations of the U.S. Government; agency discount notes with remaining maturities of 60 days or less; certain securities that will mature (or be payable through a demand feature) within five business days; or amounts unconditionally due within five business days from pending security sales. *See* rule 2a–7(a)(28).

[189] See 2010 Adopting Release, *supra* footnote 20, at n.213 and accompanying and following text.

[190] *See supra* section I.B; *see also* Prime MMFs at the Onset of the Pandemic Report, *supra* footnote 41, at 2–3. According to Form N–MFP filings, no prime money market fund reported daily liquid assets declining below the 10% threshold in March 2020.

[191] *See* proposed rule 2a–7(d)(4)(ii) and (iii).

[192] *See e.g.,* ICI Comment Letter I; Comment letter of Samuel G. Hanson, David S. Scharfstein, Adi Sunderam, Harvard Business School (Apr. 12, 2021) (''Prof. Hanson et al. Comment Letter''); Dreyfus Comment Letter (suggesting increasing the weekly liquid asset minimum to 35%); Fidelity Comment Letter (supporting higher liquidity requirements for institutional prime money market funds specifically).

[193] Dreyfus Comment Letter; SIFMA AMG Comment Letter; Western Asset Comment Letter; ICI Comment Letter I (stating that ''institutional prime money market funds on average held 44 percent of their assets in weekly liquid assets, and retail prime money market funds held on average 41 percent of their assets in weekly liquid assets'').

[194] Dreyfus Comment Letter; ICI Comment Letter I.

likelihood of a run.[195] This commenter stated that an increased weekly liquid assets requirement, along with the removal of the tie to fees and gates, would most effectively address the structural vulnerabilities in money market funds that were exposed in March 2020. Some commenters suggested that the Commission analyze and monitor market data to ensure that any new thresholds promote the goal of improving the resilience of money market funds during times of market stress while preserving the benefits that investors have come to expect from money market funds.[196]

Other commenters opposed any increase in the minimum liquidity management requirements.[197] These commenters argued that such a change would likely decrease the yield of prime money market funds. They asserted that such a decrease in yield might reduce the spread between prime and government money market funds, which could ultimately decrease investor demand for prime money market funds. Further, some commenters stated that most fund managers have shown discipline in maintaining liquidity in excess of the existing thresholds.[198] Some of these commenters asserted that this practice will continue such that increasing the minimum regulatory requirements would result in funds holding even greater amounts of daily and weekly liquid assets at levels that may be higher than is necessary or appropriate.[199] One commenter asserted that such an increase could have the unintended effect of encouraging ''barbelling,'' in which fund managers compensate for the impact on expected yield by increasing the maturity risk of their remaining assets, potentially making the fund's portfolio more susceptible to volatility overall.[200] Lastly, one commenter stated that an increase in the minimum liquidity management requirements is likely to have marginal impact because the redemption behavior in March 2020 was motivated by a concern that money market funds would implement fees and gates. This commenter asserted that if fees and gates are no longer tied to weekly liquid asset thresholds, increasing the liquidity requirements is unlikely to have a material impact on investor behavior.[201]

We believe it is important for money market funds to have a strong source of available liquidity to meet daily redemption requests, particularly in times of stress, when liquidity in the secondary market can be less reliable for many instruments in which they invest. For example, many industry commenters discussed difficulties selling commercial paper in March 2020.[202] One commenter explained that, in the commercial paper market, market participants who want to sell commercial paper frequently must ask the bank from whom they purchased the paper to bid it back in the secondary markets, and banks typically are unwilling to bid commercial paper from issuers if they are not a named dealer on the issuer's program.[203] The commenter asserted that in March 2020, banks declined to bid for commercial paper even where the bank sold the commercial paper or was a named dealer in the issuer's program. The proposed increased liquidity requirements are designed to provide a stronger liquidity buffer for funds to meet redemptions even during periods of market stress when secondary markets may be illiquid.

Moreover, we disagree with the assertion from some commenters that higher liquidity thresholds would likely decrease the demand for prime money market funds or encourage riskier portfolio construction and ''barbelling.'' As discussed below, for the past several years, prime money market funds have maintained levels of liquidity that are close to or that exceed the proposed thresholds, without generally barbelling.[204] This demonstrates that funds have the ability to operate with the proposed minimum liquidity levels while continuing to serve as an efficient and diversified cash management tool for investors. In addition, while we acknowledge that requirements to provide daily liquid asset and weekly liquid asset levels on funds websites and on Form N–MFP may encourage funds to hold liquidity buffers above the regulatory minimums, as some commenters suggested, this would not be required by our rules nor would it be necessarily an expected outcome. For example, funds may be more likely to operate as they did prior to the adoption of fee and gates provision in rule 2a–7, where they generally maintained liquidity levels slightly above the regulatory thresholds and dropped below those thresholds as needed.[205]

To aid in the determination of new daily liquid asset and weekly liquid asset thresholds, we created hypothetical portfolios and stress tested them using the redemption patterns of institutional prime funds from March 16 to 20, 2020, when prime money market funds experienced their heaviest outflows.[206] Our analysis calculated the probability that a fund would have breached its liquid asset limits under various daily liquid asset and weekly liquid asset combinations during this period. The analysis estimates that if a fund held only the required minimum liquidity thresholds of 10% daily liquid assets and 30% weekly liquid assets, the fund would have a 32% chance of exhausting its available liquidity and needing to sell less liquid assets on at least one day during the five-day period. The analysis further reflects that a fund that held 25% daily liquid assets and 50% weekly liquid assets during the same period would have a 9% chance of running out of liquid assets to meet redemptions on at least one day. At these liquidity thresholds, a fund would have a near 2% chance of running out of available liquidity on days 1, 2, and 5, and about a 5% chance of exhausting available liquidity on days 3 and 4. The analysis also assessed higher liquidity

[195] Fidelity Comment Letter.

[196] ICI Comment Letter I; Fidelity Comment Letter.

[197] *See e.g.,* Western Asset Comment Letter; Wells Fargo Comment Letter; JP Morgan Comment Letter; SIFMA AMG Comment Letter (recommending that, if the Commission does increase the weekly liquid asset threshold, it do so incrementally to observe the effects of an increased threshold on portfolio management and investor demand for money market funds).

[198] Wells Fargo Comment Letter; JP Morgan Comment Letter; Western Asset Comment Letter (noting that reporting and transparency requirements encourage managers to maintain liquid assets in excess of the existing weekly liquid asset threshold).

[199] SIFMA AMG Comment Letter; Western Asset Comment Letter.

[200] Western Asset Comment Letter.

[201] SIFMA AMG Comment Letter.

[202] *See, e.g.,* Western Asset Comment Letter; Invesco Comment Letter; BlackRock Comment Letter; ICI Comment Letter I; State Street Comment Letter.

[203] *See* BlackRock Comment Letter.

[204] *See* BlackRock Comment Letter (stating that it has not seen evidence that barbelling was a problem in March 2020, or that money market fund portfolios were generally structured with a barbell). We similarly have not found significant use of barbelling strategies among money market funds.

[205] *See infra* Section II.C.2 (proposing to maintain the existing regulatory requirement that if a money market fund's portfolio does not meet the minimum daily liquid asset or weekly liquid asset threshold, the fund may not acquire any assets other than daily liquid assets or weekly liquid assets, respectively, until it meets these minimum thresholds).

[206] Each hypothetical portfolio was created using a specific daily liquid asset and weekly liquid asset value (and, for the weekly liquid asset value, the hypothetical portfolio used one of 20 separate distribution bins of assets maturing within 2 to 5 business days, which were created to match the actual distribution observed on Form N–MFP). The analysis yielded 840 possible outcomes for each daily liquid asset and weekly liquid asset combination that were used to calculate the probability that a fund would run out of available liquidity on days 1, 2, 3, 4, and/or 5, representing March 16 to 20, 2020. Because a fund could run out on one or multiple days, our analysis also calculated the probability available liquidity would run out on at least one of the days.

levels, such as 50% daily liquid assets and 60% weekly liquid assets. At these levels, a fund would not have exhausted its available liquid assets on any day during the five-day period.

Based on this analysis and other considerations discussed in this section, we are proposing to increase the minimum liquidity requirements to 25% daily liquid assets and 50% weekly liquid assets.[207] While these proposed liquidity levels do not reduce a fund's liquidity risk to zero, we believe that, based on the analysis above, the proposed thresholds would be sufficiently high to allow most money market funds to manage their liquidity risk in a market crisis. Moreover, the proposed increase in funds' required daily and weekly liquid assets would be paired with the proposed removal of liquidity fees and redemption gates from rule 2a–7. These two proposed changes, together, should reduce incentives for managers to avoid using liquidity buffers and therefore allow them to use the increased amounts of required daily and weekly liquid assets to meet redemptions without the concern that using the assets could lead to runs to avoid a fee or gate. We also believe that the proposed liquidity buffers are sufficiently high to allow funds to use their available liquidity as needed, without raising investor concerns that the fund will rapidly run out of weekly liquid assets or daily liquid assets merely because its liquidity has dropped below the proposed 25% or 50% thresholds.

The proposed liquidity buffers of 25% daily liquid assets and 50% weekly liquid assets are generally consistent with the average liquidity levels prime money market funds have maintained over the past several years. According to analysis of Form N–MFP data from October 2016 to February 2020, the average amount of daily liquid assets and weekly liquid assets for prime money market funds was 31% and 49%, respectively. The same analysis also showed that approximately 20% of prime money market funds had daily liquid assets above 40% and weekly liquid assets above 60% over the same period. We recognize that at the higher levels of liquidity that funds typically have maintained, if money market funds had used their liquidity buffers in March 2020, many would have been able to fulfill redemptions requests without selling longer-term portfolio securities or receiving sponsor support. However, we understand that rule 2a–7's fee and gate provisions have been a significant motivating factor for funds to maintain liquidity buffers well above the current regulatory minimums. If we adopt the proposed removal of the tie between the potential imposition of fees and gates and a fund's liquidity, we are concerned that funds may subsequently reduce their liquidity levels and not be equipped to handle future stress. As we saw in March 2020, markets can become illiquid very rapidly in response to events that fund managers may not anticipate. The failure of a single fund to anticipate such conditions may lead to a run affecting all or many funds. We think it would be ill-advised to rely solely on the ability of managers to anticipate liquidity needs, which may arise from events the money market fund manager cannot anticipate or control. Thus, we are proposing modified liquidity requirements that are more in line with the typical levels of liquidity that funds have held over the past several years. If adopted, these increased liquidity requirements should limit the potential effect on fund liquidity that may otherwise arise from removing the fee and gate provisions from rule 2a–7. With the exception of tax-exempt money market funds, which will continue to be exempt from the daily liquid asset requirements, our proposal does not establish different liquidity thresholds by type of fund.[208] Although outflows in March 2020 were more acute in institutional prime money market funds than in retail prime money market funds, we do not know that redemption patterns would be the same in future periods of market turmoil, particularly without official sector intervention to support short-term funding markets.[209] In addition, while the proposal would require retail prime funds to maintain higher levels of liquidity than they have historically maintained on average, the resulting larger liquidity buffers would increase the likelihood that these funds can meet redemptions without significant dilution.[210] Moreover, retail prime money market funds invest in markets that are prone to illiquidity in stress periods, and increased liquidity requirements would provide protections so that these funds can meet redemptions in times of stress without additional tools such as liquidity fees, redemption gates, or swing pricing. We believe that a uniform approach encourages sufficient liquidity levels across all money market funds, thereby reducing the potential incentive for investors to flee from funds that might otherwise be perceived as holding insufficient liquidity during market stress events.

The PWG Report and the Commission's associated Request for Comment considered the creation of a new liquidity requirement category, such as a biweekly liquid asset requirement.[211] Commenters expressed general opposition to a new liquidity category for money market funds.[212] Commenters suggested that such a category would increase regulatory complexity and overcomplicate the regulatory framework without additional benefit.[213] Commenters also expressed skepticism that issuers would underwrite assets with a two-week maturity, as there is a very limited issuance market for assets in the biweekly maturity category.[214] After considering these comments, we are not proposing to introduce a new category of liquidity requirements. We believe that a new category, such as a requirement for biweekly assets, would be an extension of the weekly liquid asset threshold without significant benefits. This is because we expect that money market funds would likely meet a biweekly requirement in the same way that they meet the weekly liquid asset thresholds, by letting longer-dated securities roll down in maturity.[215] We believe it would be more efficient to increase the weekly liquid asset requirement directly, as proposed, than to increase it indirectly by adopting a new biweekly liquid asset requirement.

Another commenter recommended more substantial asset restrictions for prime money market funds, such as a requirement that prime money market funds hold 25–50% of their weekly liquid assets in short-term U.S.

[207] *See* proposed rule 2a–7(d)(4).

[208] *See supra* footnote 187 (discussing the current exception tax-exempt funds have from the required daily liquid asset investment minimum).

[209] As an example, if retail investors are merely slower to act initially in periods of market stress, retail prime and tax-exempt funds may need higher liquidity levels to meet ongoing redemptions if a stress period is not relatively brief.

[210] Based on analysis of Form N–MFP data, retail prime money market funds maintained average daily liquid assets of 24% and average weekly liquid assets of 42% during the period of October 2016 through February 2020. In contrast, institutional prime fund averages during this period were 37% and 54%, respectively.

[211] *See* PWG Report at 26.

[212] *See, e.g.,* ICI Comment Letter I; SIFMA AMG Comment Letter; Federated Hermes Comment Letter I; Wells Fargo Comment Letter; BlackRock Comment Letter.

[213] ICI Comment Letter I; SIFMA AMG Comment Letter; Wells Fargo Comment Letter; JP Morgan Comment Letter (asserting that ''[money market funds] typically already hold assets with a well distributed range of maturities, with longer-dated positions constantly rolling down towards maturity'').

[214] SIFMA AMG Comment Letter; JP Morgan Comment Letter; ICI Comment Letter I (noting that commercial paper, for example, is not currently issued with 14-day maturities).

[215] ICI Comment Letter I.

Government securities, including U.S. Government agency securities.[216] This commenter suggested that enhancing the quality, not only the quantity, of a prime money market fund's liquid assets would enhance investor confidence that such funds can withstand market stress. We do not believe that this type of requirement would have a significant effect, as most prime money market funds already hold a significant percentage of their weekly liquid assets in Treasuries and government agency securities.[217] We continue to believe that grounding our definitions of liquid assets in terms of maturity, rather than type of security, is the best framework to determine a fund's available liquidity for purposes of rule 2a–7. Instead of requiring funds to hold a separate threshold of particular securities within the daily and weekly liquid asset basket, as the commenter suggested, we believe that increasing the minimum liquidity threshold, paired with removing fees and gates from rule 2a–7, would be a more efficient manner of enhancing funds' access to liquidity and thus their ability to withstand market stress.

We request comment on our proposal to increase the minimum liquidity requirements to 25% daily liquid assets and 50% weekly liquid assets, including the following:

66. Would our proposal to increase the minimum liquidity requirements make money market funds more resilient during times of market stress? Would a lower or higher threshold of daily or weekly liquid assets better allow most money market funds' to meet potential redemptions without selling less liquid asset in periods of market stress? Should we instead propose to raise the minimum daily liquid asset threshold to 20%, 30%, or 35% and/or the minimum weekly liquid asset threshold to 40%, 55%, or 60%, for example? Why or why not?

67. Would our proposal to remove fee and gate provisions from rule 2a–7 encourage funds to maintain lower levels of liquidity during normal market conditions? If so, do our proposed increased minimum liquidity requirements limit the potential effect on fund liquidity that may otherwise arise from our proposal to remove fee and gate provisions from rule 2a–7? Should the proposed minimum liquidity thresholds be higher or lower to accommodate such effect? Why or why not?

68. To what extent would our proposed amendments reduce money market fund liquidity risk?

69. What, if any, impacts would our proposed amendments have on yields of prime money market funds? What would be the effect on yields of lower or higher minimum liquidity requirements? Would increased or decreased yields effect the desirability of prime money market funds for retail and/or institutional investors? Would the proposed amendments decrease the availability of prime money market funds?

70. How would the proposal affect funds' current incentives to maintain liquidity buffers well above the regulatory minimums? Would funds be more likely to hold daily liquid asset and weekly liquid asset amounts that are closer to the regulatory minimums? Absent our proposed increase to the minimum liquidity requirements, would the existing requirement for funds to disclose liquidity information on a daily basis on their websites provide sufficient incentive for funds to maintain liquidity buffers well above the current regulatory minimums?

71. Would our proposal increase the propensity for prime money market funds to ''barbell'' or invest in potentially risker and longer-term assets outside of the portion of the fund's portfolio that qualifies as daily liquid assets or weekly liquid assets? Why or why not?

72. Should the proposal alter the current framework for which type of money market funds are subject to the minimum liquidity requirements? For example, should the requirements distinguish between prime money market funds and government money market funds? Should institutional money market funds and retail money market funds be subject to the same minimum liquidity requirements, as proposed? Does the fact that institutional money market funds experienced more significant outflows than retail money market funds during recent stress events reflect that institutional money market funds should be subject to a different minimum liquidity requirement than retail money market funds? Why or why not?

73. Should the proposed minimum liquidity requirements vary based on external market factors? For example, would a countercyclical minimum liquidity threshold, in which the minimum liquidity thresholds decline when net redemptions are large or when the Commission provides temporary relief from the higher liquidity threshold, better incentivize money market funds to use liquidity during times of significant outflows?[218] If so, what specific factors should trigger or inform a countercyclical minimum liquidity threshold?

74. Would the increased liquidity thresholds, along with other changes we are proposing, affect investors' interest in monitoring funds' liquidity levels or potential sensitivity to declines below the liquidity thresholds? Are there any changes we should make to reduce potential investor sensitivity to a fund dropping below a liquidity threshold? For example, should we remove, or reduce the frequency of, website liquidity disclosure?

75. Should the Commission consider revising the definition of daily liquid assets and/or weekly liquid assets in any way? For instance, should we amend the definition of weekly liquid assets to limit the amount of non-government securities that can qualify as weekly liquid assets? Alternatively, would explicitly limiting the amount of investment in commercial paper and certificates of deposit for prime money market funds alleviate stresses in the short-term funding market during market downturns? Why or why not?

76. Should the Commission propose a new category of liquidity requirements to rule 2a–7? Would a new category of liquidity requirements with slightly longer maturities than the current requirements (*e.g.,* biweekly liquid assets) significantly enhance funds' near-term portfolio liquidity during periods of stress in the short-term funding markets? What would be the positive and negative effects of a new category of liquidity requirements with slightly longer maturities?

2. Consequences for Falling Below Minimum Daily and Weekly Liquidity Requirements

Currently, rule 2a–7 requires that a money market fund comply with the daily liquid asset and weekly liquid asset standards at the time each security is acquired.[219] A money market fund's

[216] CCMR Comment Letter.

[217] *See* Baklanova, Kuznits, and Tatum, How Do Prime MMFs Manage Their Liquidity Buffers (July 21, 2021), *available at https://www.sec.gov/files/how-do-prime-mmfs-manage-liquidity-buffers.pdf* (finding that investments in Treasuries and government agency securities account, on average, for approximately 35% of prime funds' weekly liquid assets).

[218] The PWG Report discussed a countercyclical liquidity buffer as a potential reform option. Most commenters opposed this option and expressed concern that it may create a new trigger event that could accelerate redemptions. *See* SIFMA AMG Comment Letter; Western Asset Comment Letter; JP Morgan Comment Letter; Fidelity Comment letter; Dreyfus Comment Letter. A few commenters supported this option. *See* ABA Comment Letter; mCD IP Comment Letter.

[219] Rule 2a–7(d)(4)(ii) and (iii). Compliance with the minimum liquidity requirement is determined

Continued

portfolio that does not meet the minimum liquidity standards has not failed to satisfy the daily liquid asset and weekly liquid asset conditions of rule 2a–7; the fund simply may not acquire any assets other than daily liquid assets or weekly liquid assets, respectively, until it meets these minimum thresholds. We are proposing to maintain this approach with respect to the increased minimum liquidity thresholds.

Commenters generally supported maintaining the current rule's regulatory requirements when a fund's liquidity drops below the daily or weekly liquidity threshold instead of including some type of automatic penalty that would apply either to the fund or to the fund sponsor under these circumstances, which was an option the PWG Report discussed.[220] Some commenters noted that the Investment Company Act and the rules thereunder do not otherwise impose automatic penalties on funds or fund sponsors.[221] A commenter also noted that imposing a penalty on the fund sponsor might further disincentivize managers from using their existing liquidity in times of market stress.[222] Several commenters suggested that the reforms could require a money market fund to overcorrect (*e.g.,* invest only in liquid assets until its weekly liquid assets exceed a specified percentage above the regulatory minimum) if it fell below the minimum liquidity threshold.[223] One of these commenters further suggested that a fund be prohibited from purchasing any non-overnight instruments until it reaches the required liquidity minimum threshold.[224]

As we saw in March 2020, markets can become illiquid very rapidly in response to events that money market fund managers may not anticipate. This demonstrates that it is important that fund managers have the ability to sell their most liquid assets to meet investor redemptions to avoid selling less liquid assets into a declining market, which would likely have negative effects on the fund and its remaining shareholders. Accordingly, we believe that any regulatory amendments should allow funds to deploy their excess liquidity during times of market stress, when such liquidity is typically needed most. Imposing a new regulatory penalty when a fund drops below a minimum liquidity threshold, or requiring the fund to ''overcorrect'' in that case, could have the unintended effect of incentivizing some fund managers to sell less liquid assets into a declining market rather than use their excess liquidity during market stress events out of fear of approaching or falling below the regulatory threshold.[225] We therefore are proposing to maintain the existing regulatory requirement that if a money market fund's portfolio does not meet the minimum daily liquid asset or weekly liquid asset threshold, the fund may not acquire any assets other than daily liquid assets or weekly liquid assets, respectively, until it meets these minimum thresholds.

Moreover, the proposed rule would require a fund to notify its board of directors when the fund has invested less than 25% of its total assets in weekly liquid assets or less than 12.5% of its total assets in daily liquid assets (a ''liquidity threshold event'').[226] The proposal would require a fund to notify the board within one business day of the liquidity threshold event.[227] The proposed rule would also require the fund to provide the board with a brief description of the facts and circumstances that led to the liquidity threshold event within four business days after its occurrence.[228] Some commenters supported requiring a fund to notify its board following the fund falling below a liquidity threshold.[229]

The liquidity levels that trigger a liquidity threshold event reflect that a fund's liquidity has decreased by more than 50% below at least one of the proposed minimum daily and weekly liquid asset requirements. This provision is designed to facilitate appropriate board notification, monitoring, and engagement when a fund's liquidity levels decrease significantly below the minimum liquidity requirements.[230] We understand that many funds today provide regular reports to fund boards regarding fund liquidity, often in connection with quarterly board meetings. We believe that the proposed board notification requirement would provide the board with timely information in a context that would better facilitate the board's understanding and monitoring of significant declines in the fund's liquidity levels.

We request comment on the proposed regulatory requirements for falling below the minimum liquidity thresholds, including the following:

77. Should the Commission impose penalties on funds or fund sponsors when a fund falls below a required minimum liquidity requirement? For example, should we require funds to ''over-correct'' to a higher liquidity level after dropping below a minimum requirement? If so, how long should a fund be required to maintain a higher level of liquidity after the over-correction?

78. Should rule 2a–7 impose a minimum liquidity maintenance requirement, *i.e.,* require that a money market fund maintain the minimum daily liquid asset and weekly liquid asset thresholds at all times? What are the advantages and disadvantages of this approach?

79. Are the proposed requirements for the fund to notify its board upon a liquidity threshold event appropriate? Would the proposed requirement help boards monitor significant declines in fund liquidity levels? Do funds currently notify the board when they fall below a certain liquidity level?

80. Should the liquidity levels that trigger a liquidity threshold event be 50% of the minimum liquidity requirements, as proposed? Would a lower or higher percentage be more appropriate (*e.g.,* 10%, 25%, or 75% below the minimum liquidity requirements)? Alternatively, should the rule require funds to notify the board if the fund falls below the minimum liquidity requirements (*i.e.,* below 25% daily liquid assets or 50% weekly liquid assets)?

81. Should the rule also require the fund to provide a subsequent notification to its board when the fund's liquidity returns above an identified threshold (*e.g.,* the fund's liquidity is at or above the 25% daily liquid asset requirement and 50% weekly liquid asset requirement)?

82. Is one business day sufficient time to allow a fund to notify its board following a liquidity threshold event? Is four business days sufficient time to allow a fund to provide its board with

at security acquisition, because we believe that a money market fund should not have to dispose of less liquid securities (and potentially realize an immediate loss) if the fund fell below the minimum liquidity requirements as a result of investor redemptions.

[220] ICI Comment Letter I; SIFMA AMG Comment Letter; Fidelity Comment Letter.

[221] SIFMA AMG Comment Letter; Fidelity Comment Letter.

[222] Fidelity Comment Letter.

[223] SIFMA AMG Comment Letter; Fidelity Comment Letter; JP Morgan Comment Letter; Dreyfus Comment Letter.

[224] SIFMA AMG Comment Letter.

[225] To some extent, this could be similar to the effect we observed in March 2020 of the tie between the weekly liquid asset threshold and the potential imposition of liquidity fees or redemption gates, when some fund managers sold less liquid assets to avoid dropping below the regulatory threshold.

[226] *See* proposed rule 2a–7(f)(4)(i).

[227] *Id.*

[228] See proposed rule 2a–7(f)(4)(ii).

[229] JP Morgan Comment Letter; SIFMA AMG Comment Letter.

[230] Similar to these proposed board notification requirements, we are proposing that funds file reports on Form N–CR upon a liquidity threshold event. *See infra* Section II.F.1.a.

a brief description of the facts and circumstances that led to a liquidity threshold event? Should the rule provide more or less time for either or both of these notifications? Should the rule require either or both of these notifications to the fund's board to be written?

83. Are the proposed requirements for the fund to notify the board of the facts and circumstances that led to a liquidity threshold event appropriate? Would the fund provide these details without the rule's requirements (either on its own or after board inquiry)? Should the rule require other specific information in this notification? If so, what information and why? For example, should the rule require a fund to provide a reasonable estimate for when the fund will come back into compliance with the minimum liquidity requirements?

84. Should we instead require board notification if a fund has dropped below a particular liquidity level for a specified period (*e.g.,* if the fund has dropped below the minimum liquidity requirements, or some lower amount, for at least 3, 5, or 10 consecutive business days)? Should a liquidity threshold event for purposes of the board notification requirement align with liquidity threshold events that funds would be required to report on Form N–CR, such that any changes to the scope of the proposed Form N–CR reporting requirement would also apply to the board notification requirement?

3. Proposed Amendments to Liquidity Metrics in Stress Testing

Each money market fund is currently required to engage in periodic stress testing under rule 2a–7 and report the results of such testing to its board.[231] Currently, one aspect of periodic stress testing involves the fund's ability to have invested at least 10% of its total net assets in weekly liquid assets under specified hypothetical events described in rule 2a–7. The Commission chose the 10% threshold because dropping below this threshold triggers a default liquidity fee, absent board action, and thus, has consequences for a fund and its shareholders.[232] Because our proposal would no longer provide for default liquidity fees if a fund has weekly liquid assets below 10%, and our proposal would increase the weekly liquid asset minimum from 30% to 50%, we no longer believe that the rule should require funds to test their ability to maintain 10% weekly liquid assets under the specified hypothetical events described in rule 2a–7. Instead, we are proposing to require funds to test whether they are able to maintain sufficient minimum liquidity under such specified hypothetical events.[233] As a result, each fund would be required to determine the minimum level of liquidity it seeks to maintain during stress periods, identify that liquidity level in its written stress testing procedures, periodically test its ability to maintain such liquidity, and provide the fund's board with a report on the results of the testing.

For purposes of stress testing, we are proposing to permit each fund to determine the level of liquidity that it considers sufficient, instead of continuing to provide a bright-line threshold that all funds must use uniformly. We believe the proposed approach may improve the utility of stress test results because they would reflect whether the fund is able to maintain the level of liquidity it considers sufficient, which may differ among funds for a variety of reasons (*e.g.,* type of money market fund or characteristics of investors, such as investor concentration or composition that may contribute to large redemptions).

We request comment on the proposed amendments to stress testing requirements, including the following;

85. As proposed, should we remove the 10% weekly liquid asset metric from current stress testing requirements and instead require funds to determine the sufficient minimum liquidity level to test?

86. Should we instead identify a different liquidity threshold funds must test (*e.g.,* 15%, 20%, or 30% weekly liquid assets)? Under this approach, should we require stress testing to consider both weekly liquid assets and daily liquid assets? If so, what threshold should we use for daily liquid assets (*e.g.,* 5%, 10%, or 15%)?

D. Amendments Related to Potential Negative Interest Rates

Twice during the past 15 years, the Federal Reserve established the lower bound of the target range for the federal funds rate at 0% to spur borrowing and other economic activity in the face of economic crises. In 2008, a crisis that originated in the financial sector quickly spread to the rest of the U.S. economy, prompting the Federal Reserve to establish a target federal funds rate of 0–0.25% for the first time.[234] The Federal Reserve raised the target range for the federal funds rate in 2015, but the rise in rates from 2015 to 2018 was relatively short lived.[235] In early 2020, another crisis occurred, amid growing economic concerns related to the COVID–19 pandemic and an overall flight by investors to liquidity and quality. Once again, the Federal Reserve lowered the target range for the federal funds rate to 0–0.25%.[236] In this pervasive low interest rate environment, it is very difficult for investors to generate substantial returns from investments in U.S. Treasury securities and other high quality government debt securities. This is true for money market funds, and particularly true for government money market funds, which must invest 99.5% or more of their assets in cash, government securities, and/or repurchase agreements that are collateralized fully.[237] Government and retail money market funds (or ''stable NAV funds'') can still maintain a non-negative stable share price while investing in instruments that yield a low but positive interest rate; however, if interest rates turn negative and the gross yield of a fund's portfolio turns negative, it would be challenging or impossible for the fund to maintain a non-negative stable share price. The fund would begin to lose money.

Despite keeping the lower bound of the federal funds rate target at zero for many years, some policymakers at the Federal Reserve have at times expressed the view that negative interest rates do not appear to be an attractive monetary policy tool in the United States.[238] However, other regulators and academics, including prior Federal Reserve leaders, have suggested policymakers could consider negative interest rates as a potential tool to counteract future economic

[231] *See* 17 CFR 270.2a–7(g)(8).

[232] *See* 2014 Adopting Release, *supra* footnote 12, at Section III.J.2.

[233] *See* proposed rule 2a–7(g)(8)(i) and (g)(8)(ii)(A).

[234] Statement of the Federal Open Markets Committee, December 16, 2008, *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20081216b.htm.*

[235] *See* Board of Governors of the Federal Reserve System, ''Open Market Operations,'' *available at https://www.federalreserve.gov/monetarypolicy/openmarket.htm.*

[236] Statement of the Federal Open Markets Committee, March 15, 2020, *available at https://www.federalreserve.gov/newsevents/pressreleases/monetary20200315a.htm.*

[237] 17 CFR 270.2a–7(a)(14). The term ''government security,'' as defined in the Act, means any security issued or guaranteed as to principal or interest by the United States, or by a person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit for any of the foregoing. 15 U.S.C. 80a–2(a)(16).

[238] *See, e.g.,* Minutes of the Federal Open Market Committee: October 29–30, 2019, *available at* ''*https://www.federalreserve.gov/monetarypolicy/files/fomcminutes20191030.pdf.*

slowdowns.[239] In addition, even if the Federal Reserve does not lower the target federal funds rate below zero, market interest rates may still move into negative territory if the federal funds rate remains at or near zero for extended periods of time. Given the possibility that negative interest rates may occur during future periods of economic instability, in 2020 several money market fund sponsors issued investor education materials about the effects of negative interest rates.[240] Fund sponsors also published analyses of potential actions that government and retail money market funds could take in order to maintain a stable share price if the gross yield on their investments turns negative.[241]

Rule 2a–7, in its current form, does not explicitly address how money market funds must operate when interest rates are negative. However, rule 2a–7 states that government and retail money market funds may seek to maintain a stable share price by using amortized cost and/or penny-rounding accounting methods. A fund may only take this approach so long as the fund's board of directors believes that the stable share price fairly reflects the fund's market-based net asset value per share.[242] Accordingly, if negative interest rates turn a stable NAV fund's gross yield negative, the board may reasonably believe the stable share price does not fairly reflect the market-based price per share, as the fund would be unable to generate sufficient income to support a stable share price. Under these circumstances, the fund would not be permitted to use amortized cost and/or penny-rounding accounting methods to seek to maintain a stable share price. Instead, the fund would need to convert to a floating share price.

In addition to the pricing provision described above, rule 2a–7 also includes certain procedural standards for stable NAV funds.[243] These standards, overseen by the fund's board of directors, include a requirement that the fund periodically calculate the market-based value of the portfolio (''shadow price'') and compare it to the fund's stable share price. If the deviation between these two values exceeds ½ of 1% (50 basis points), the fund's board of directors must consider what action, if any, should be taken by the board, including whether to re-price the fund's securities above or below the fund's $1.00 share price (*i.e.,* ''break the buck''). Regardless of the extent of the deviation, rule 2a–7 imposes on the board of a money market fund a duty to consider appropriate action whenever the board believes the extent of any deviation may result in material dilution or other unfair results to investors or current shareholders. We believe that, if interest rates turn negative, the board of a stable NAV fund could reasonably require the fund to convert to a floating share price to prevent material dilution or other unfair results to investors or current shareholders.

While these pricing provisions of rule 2a–7 apply specifically to government and retail money market funds, the rule also requires these funds and their transfer agents to have the capacity to redeem and sell securities at prices that do not correspond to a stable price per share.[244] Accordingly, these funds and their service providers also must understand how the floating share price mechanism would operate when interest rates are negative. Government and retail money market fund transfer agents and other service providers generally should confirm that they have effective procedures to facilitate transactions for the fund if it were to switch to a floating share price.

We believe the pricing provisions of rule 2a–7 provide appropriate flexibility for a fund with a stable share price to respond to negative interest rates. While we are not proposing changes to the rule 2a–7 pricing provisions in relation to negative interest rates, we are proposing to expand government and retail money market funds' obligations to confirm that they can fulfill shareholder transactions if they convert to a floating share price. Specifically, we propose to require a government or retail money market fund (or the fund's principal underwriter or transfer agent on its behalf) to determine that financial intermediaries that submit orders—including through an agent—to purchase or redeem the fund's shares have the capacity to redeem and sell the fund's shares at prices that do not correspond to a stable price per share or, if this determination cannot be made, to prohibit the relevant financial intermediaries from purchasing the fund's shares in nominee name.[245] Funds would have flexibility in how they make this determination for each financial intermediary but would be required to maintain records identifying the intermediaries the fund has determined have the capacity to transact at non-stable share prices and the intermediaries for which the fund was unable to make this determination.[246] We believe it is necessary that all parties concerned—stable NAV money market funds, their service providers, and their distribution network—are capable of processing transactions in a fund's shares in the event that the fund converts to a floating NAV. Rule 2a–7 already imposes this obligation on money market funds and their transfer agents. Because many investors purchase shares through financial intermediaries, however, we believe it is important that such intermediaries are able to continue to process shareholder transactions if a stable NAV fund converts to a floating NAV. Absent this capability, a money market fund would not actually be able to process transactions at a floating NAV, as currently required by rule 2a–7.

The pricing provisions of rule 2a–7 have now been in place for several years, and we believe fund sponsors are familiar with the operational requirements to operate a money market fund with a floating share price. This is especially true because all money market funds other than government and retail money market funds are currently required to operate with a floating share price. However, some fund industry representatives proposed

[239] *See, e.g.,* ''What tools does the Fed have left? Part 1: Negative interest rates,'' Ben S. Bernanke (March 18, 2016), *available at https://www.brookings.edu/blog/ben-bernanke/2016/03/18/what-tools-does-the-fed-have-left-part-1-negative-interest-rates/* (''Overall, as a tool of monetary policy, negative interest rates appear to have both modest benefits and manageable costs'').

[240] *See, e.g.,* ''Negative interest rates: What you need to know'' Wells Fargo Letter Asset Management (July 2020), *available at https://www.wellsfargoassetmanagement.com/assets/public/pdf/insights/investing/negative-interest-rates-what-you-need-to-know.pdf*; ''Everything You Needed to Know About Negative Rates to Impress Your Boss'' State Street Letter Global Advisors (June 2020), *available at https://www.ssga.com/library-content/pdfs/cash/inst-cash-negative-interest-rate-piece.pdf.*

[241] *See, e.g.,* ''Negative Rates: Could it happen in the US?'' Invesco (March 31, 2020), *available at https://www.Invesco.com/us-rest/contentdetail?contentId=798d6439a0331710VgnVCM1000006e36b50aRCRD&audienceType=Institutional*; ''Negative interest rates: What you need to know'' Wells Fargo Asset Management (July 2020), *available at https://www.wellsfargoassetmanagement.com/assets/public/pdf/insights/investing/negative-interest-rates-what-you-need-to-know.pdf.*

[242] 17 CFR 270.2a–7(c)(1)(i).

[243] 17 CFR 270.2a–7(g)(1).

[244] 17 CFR 270.2a–7(h)(11).

[245] *See* proposed rule 2a–7(h)(11)(ii). This proposed requirement would apply to each financial intermediary that submits orders, itself or through its agent, to purchase or redeem shares directly to the money market fund, its principal underwriter or transfer agent, or to a registered clearing agency. The term ''financial intermediary'' has the same meaning as in 17 CFR 270.22c–2(c)(1). *See* proposed rule 2a–7(h)(11)(iv).

[246] *See* proposed rule 2a–7(h)(11)(iii). Funds would be required to preserve a written copy of such records for a period of not less than six years following each identification of a financial intermediary, the first two years in an easily accessible place.

different operational responses to negative interest rates. Specifically, some fund sponsors discussed a reverse distribution mechanism, whereby a government or retail money market fund would maintain a stable share price, despite losing value, by reducing the number of its outstanding shares. We understand that European money market funds used a reverse distribution mechanism for a period of time, before the European Commission determined this approach was not consistent with the 2016 EU money market fund regulations.[247] While some have suggested that the reverse distribution mechanism was not confusing to European money market fund investors, nearly all of whom are institutional investors, we believe such a mechanism would not be intuitive for retail investors in government and retail money market funds. Under a reverse distribution mechanism, these investors would observe a stable share price but a declining number of shares for their investment in a fund that is generating a negative gross yield. We believe that investors may be misled by such a mechanism and assume that their investment in a fund with a stable share price is holding its value while, in fact, the investment is losing value over time.[248] In contrast, we believe investors would easily understand a decline in share prices in the event that a fund's gross yield turns negative. Due to the potentially misleading or confusing nature of the reverse distribution mechanism, we are proposing to amend rule 2a–7 to prohibit money market funds from operating a reverse distribution mechanism, routine reverse stock split, or other device that would periodically reduce the number of the fund's outstanding shares to maintain a stable share price.[249]

Having described considerations under rule 2a–7 that are relevant to negative interest rates, we seek comment on possible methods that government or retail money market funds could use to operate if interest rates turn negative. We also seek comment on our proposal to prohibit money market funds from operating a reverse distribution mechanism and our proposed provisions relating to whether a government or retail fund's distribution network can sell and redeem the fund's shares at non-stable prices per share.

87. Should the Commission mandate specific disclosure to investors or to the Commission if a fund's gross yield turns negative?

88. Would a reverse distribution mechanism or similar mechanism mislead or confuse investors? Would such a mechanism benefit investors? Would investors more easily understand a decline in share prices (*i.e.,* a floating share price), rather than a decline in the number of stable value shares (*i.e.,* a reverse distribution mechanism), in the event that a fund's gross yield turns negative?

89. Should we permit a stable NAV money market fund to engage in a routine reverse stock split, reverse distribution mechanism, or other mechanism by which the fund maintains a stable share price, despite losing value, by reducing the number of its outstanding shares? Should we permit only institutional government funds to engage in such a mechanism because institutional investors may be more likely to appreciate that the fund is losing value notwithstanding the lack of a change in the share price? If so, how should we define an institutional government fund for this purpose (*e.g.,* a government fund that does not have policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons; or a government fund that has policies and procedures reasonably designed to limit all beneficial owners to non-natural persons)? If we permit the use of such a mechanism, how should a fund be required to communicate its operation to investors? Should the fund be required to take steps to make sure existing investors approve of a reverse distribution mechanism before operating such a mechanism? If so, what should those steps be?

90. Should all stable NAV money market funds be required to respond to negative interest rates in the same manner (*i.e.,* should all these funds be required to switch to a floating share price, or should each fund be permitted to respond to negative interest rates in a different manner)? If the rule permits funds to respond to negative interest rates on an individualized basis, should the rule prescribe specific options that are permissible? Would it be confusing for investors if each money market fund used a different method for absorbing a negative interest rate?

91. Would investors prefer a government or retail money market fund with a negative yield to implement a floating share price or a reverse distribution mechanism? Does the response differ depending on the type of investor? Does the response differ depending on the type of money market fund?

92. How likely are investors to remain invested in a money market fund with a negative gross yield? If investors redeem shares in a money market fund with a negative gross yield, where might they choose to invest their money instead?

93. How likely are fund sponsors to continue to operate money market funds in a pervasive negative interest rate environment? Are certain fund sponsors (*e.g.,* bank-affiliated sponsors) more likely than others to continue to operate money market funds in a negative interest rate environment? Are sponsors more likely to continue to operate certain types of money market funds (*e.g.,* prime funds) in a negative interest rate environment?

94. As proposed, should we require a government or retail fund to determine that financial intermediaries in its distribution network can sell and redeem the fund's shares at non-stable prices per share? Should we, as proposed, require a fund to prohibit a financial intermediary from purchasing the fund's shares in nominee name on behalf of other persons if the fund cannot make such a determination? Are there alternative approaches we should take to make sure financial intermediaries are able to handle a fund's potential transition from using a stable NAV to a floating NAV?

95. As proposed, should we require a government or retail fund to maintain and keep current records identifying the intermediaries the fund has determined have the capacity to transact at non-stable share prices and the intermediaries for which the fund was unable to make this determination? Are there alternative ways of documenting this information that we should require? Should we require funds to periodically check against these records to make sure they are not using an intermediary that cannot transact at non-stable share prices?

96. Should we mandate or provide additional guidance around how a fund would determine that a financial intermediary can sell and redeem the fund's shares at non-stable prices per share? Should we require a fund to maintain records of these determinations?

97. Should we require a fund to report to its board of directors the basis of its

[247] *See* ESMA Press Release, European Commission Letter on Money Market Fund Regulation (Feb. 2, 2018), *available at https://www.esma.europa.eu/press-news/esma-news/european-commission-letter-money-market-fund-regulation.*

[248] Comment Letter of Jose Joseph (Apr. 13, 2021) (''Jose Joseph Comment Letter'') (suggesting that if money market funds generate negative yields, ''[u]nilaterally redeeming the shares[ ] by reverse distribution is like cheating'' and that funds should instead inform shareholder and move to a floating NAV to be fair and transparent).

[249] *See* proposed rule 2a–7(c)(3).

determinations that a financial intermediary has the capacity to redeem and sell securities issued by the fund at a price based on the current net asset value, including prices that do not correspond to a stable price per share? Should we require a fund to disclose the basis of such determinations publicly or to the Commission?

98. Should we require government and retail funds and their financial intermediaries to test their ability to redeem and sell securities issued by the fund at prices that do not correspond to a stable price per share? Should we require a fund to report the results of those tests to its board of directors? Should we require a fund to disclose the results of those tests to the Commission or publicly?

E. Amendments To Specify the Calculation of Weighted Average Maturity and Weighted Average Life

We are proposing to amend rule 2a–7 to specify the calculations of ''dollar-weighted average portfolio maturity'' (''WAM'') and ''dollar-weighted average life maturity'' (''WAL'').[250] WAM and WAL are calculations of the average maturities of all securities in a portfolio, weighted by each security's percentage of net assets. These calculations are an important determinant of risk in a portfolio, as a longer WAM and WAL may increase a fund's exposure to interest rate risks. We have found that funds use different approaches when calculating WAM and WAL under the current definitions in the rule. For instance, we understand that a majority of money market funds calculate WAM and WAL based on the percentage of each security's market value in the portfolio, while other money market funds base calculations on the amortized cost of each portfolio security. This discrepancy can create inconsistency of WAM and WAL calculations across funds, including in data reported to the Commission and provided on fund websites.[251] Although these inconsistencies are likely to be small, they could confuse investors that review funds' WAM and WAL and create inefficiencies for the Commission's monitoring of money market funds. Accordingly, we are proposing to amend rule 2a–7 to require that money market funds calculate WAM and WAL based on the percentage of each security's market value in the portfolio. We are proposing to require funds to use market value because all types of money market funds already determine the market values of their portfolio holdings for other purposes, while only certain money market funds use amortized cost.[252] Thus, we believe all money market funds can use this calculation approach with information they already obtain. We believe that these amendments will enhance the consistency of calculations for funds, while allowing the Commission to better monitor and respond to indicators of potential risk and stress in the market.

We request comment on the proposed clarification of WAM and WAL calculations, including the following:

99. Should we require all money market funds to calculate WAM and WAL based on the percentage of each security's market value in the portfolio, as proposed? Should certain types of money market funds be excluded from this requirement or subject to a different requirement? If so, why? For instance, should we require money market funds that maintain a stable NAV to calculate WAM and WAL using the amortized costs of the portfolio?

100. Are there benefits to calculating WAM and WAL based on amortized cost of the portfolio instead of market value?

101. Are there other changes or additions that would improve the accuracy or consistency of the calculations of WAM or WAL? Should we provide additional guidance related to the proposed amendment?

F. Amendments to Reporting Requirements

1. Amendments to Form N–CR

Money market funds are required to file reports on Form N–CR when certain specified events occur.[253] Currently, a money market fund typically is required to file Form N–CR reports if a portfolio security defaults or experiences an event of insolvency, an affiliate provides financial support to the fund, the fund experiences a deviation between current net asset value per share and intended stable price per share, liquidity fees or redemption gates are imposed or lifted, as well as any optional disclosure made at the fund's discretion. We are proposing to add a new requirement for a money market fund to file a report on Form N–CR when the fund falls below a specified liquidity threshold. We also propose to require funds to file Form N–CR reports in a structured data language. Further, we are proposing other amendments to improve the utility of reported information and to remove reporting requirements related to the imposition of liquidity fees and redemption gates under rule 2a–7.

a. Reporting of Liquidity Threshold Events

We propose to amend Form N–CR to require a fund to report when a liquidity threshold event occurs (*i.e.,* the fund has invested less than 25% of its total assets in weekly liquid assets or less than 12.5% of its total assets in daily liquid assets).[254] Currently, money market funds are required to provide information about the size of their weekly liquid assets and daily liquid assets on a daily basis on their websites.[255] We believe it is appropriate to require that a fund report when it falls below half of its 25% daily liquid asset and 50% weekly liquid asset minimum liquidity requirements, as this drop represents a significant decrease in liquidity. We believe this reporting would help investors, the Commission, and its staff monitor significant declines in liquidity, without having to monitor each money market fund's website.[256] The reports also would provide more transparency, as well as facilitate our monitoring efforts, by providing the related facts and circumstances of any liquidity threshold event.

Upon falling below either of the liquidity thresholds, the proposed amendments would require a fund to report certain information about the liquidity threshold event. When reporting a liquidity threshold event, the fund's report on Form N–CR would be required to include: (1) The initial date on which the fund falls below either the 25% weekly liquid asset threshold or the 12.5% daily liquid asset threshold; (2) the percentage of the fund's total assets invested in both weekly liquid assets and daily liquid assets on the initial date of a liquidity threshold event; and (3) a brief description of the facts and circumstances leading to the liquidity

[250] *See* proposed amendments to rule 2a–7(d)(1)(ii) and (iii).

[251] *See* Items A.11 and A.12 of Form N–MFP; 17 CFR 270.2a–7(h)(10)(i)(A).

[252] Money market funds that use a floating NAV use market values when determining a fund's NAV, while money market funds that maintain a stable NAV are required to use market values to calculate their market-based price at least daily.

[253] *See* 17 CFR 270.30b1–8 (rule 30b1–8 under the Act).

[254] Proposed Part E of Form N–CR.

[255] 17 CFR 270.2a–7(h)(10)(ii)(A) and (B). Under these provisions, a money market fund must post prominently on its website a schedule, chart, graph, or other depiction that provides the percentages of the fund's total assets invested in daily liquid assets and in weekly liquid assets. This website disclosure must be updated each business day, as of the end of the preceding business day, and cover each business day during the preceding six months.

[256] *See* JP Morgan Comment Letter (suggesting that money market funds be required to report to the Commission when they fall below a liquidity threshold).

threshold event.[257] The proposed reporting requirement would apply when a fund falls below either threshold. Although a fund may not necessarily fall below both thresholds, we are proposing to require funds to disclose the percentages of both weekly liquid assets and daily liquid assets as of the initial date that either threshold is crossed.[258] We believe that reporting both weekly liquid asset and daily liquid asset levels would provide insight into a fund's short-term and immediate liquidity profile. The brief description of facts and circumstances would include additional details about the liquidity threshold event, which would better inform investors, the Commission, and our staff of events that lead to significant declines in liquidity.[259]

Consistent with the timing of current Form N–CR reporting items, the proposal would require a money market fund to file a report within one business day after occurrence of a liquidity threshold event; however, a fund could file an amended report providing the required brief description of the facts and circumstances leading to the liquidity threshold event up to four business days after such event.[260] We believe it may take funds up to four business days to write and review a narrative description of the relevant facts and circumstances, particularly where the liquidity threshold event was caused by multiple or complex circumstances. If a fund has daily liquid assets or weekly liquid assets continuously below the relevant threshold for consecutive business days after reporting an initial liquidity threshold event, the proposal would not require additional Form N–CR reports to disclose that the same type of liquidity threshold event continues.[261]

We request comment on the proposed amendments to Form N–CR to report information related to liquidity threshold events:

102. Should we require money market funds to file reports on Form N–CR when they fall more than 50% below a minimum liquidity requirement, as proposed? How might liquidity reporting on Form N–CR affect money market funds' incentives to maintain weekly liquid assets and daily liquid assets above 25% and 12.5%, respectively, of total assets? How might this reporting affect investor behavior?

103. Should a report on Form N–CR when a fund falls more than 50% below a liquidity threshold be filed confidentially with the Commission (*e.g.,* because investors can already see liquidity levels on funds' public websites and Form N–CR reporting may increase investor sensitivity to liquidity levels)? Or, in addition to the proposed public reporting when a fund falls more than 50% below a liquidity threshold, should we require funds to file confidential reports at a different level below a minimum liquidity requirement (*e.g.,* 25% below a minimum)? If we require funds to report certain information confidentially on Form N–CR, should that information be publicly available on a delayed basis and, if so, what is an appropriate delay (*e.g.,* 15, 30, or 60 days)?

104. Should we use a different daily liquid asset or weekly liquid asset level for determining when a fund must file a report on Form N–CR? If so, what level(s) should we use? For example, would 10%, 25%, or 75% (rather than 50%) below the minimum liquidity requirements be appropriate?

105. As proposed, should funds be required to report both their current weekly liquid asset and daily liquid asset levels even if only one of those thresholds is crossed?

106. Should funds be required to report each day they remain below either the 12.5% daily liquid asset threshold or the 25% weekly liquid asset threshold, or is just the initial date of liquidity threshold event sufficient? Should funds be required to subsequently report when a fund's liquidity returns above an identified threshold (*e.g.,* to a level at or above the minimum liquidity requirements) or is the daily website disclosure of fund liquidity levels sufficient for this purpose?

107. As proposed, should we require funds to report liquidity threshold events within one business day of the relevant event? Is four business days sufficient for funds to file an amended report that includes a brief description of the facts and circumstances leading to the fund falling below either threshold? Should these reporting periods be longer or shorter?

108. Should any more, less, or other information be required in connection with liquidity threshold events?

b. Structured Data Requirement

We are proposing to require money market funds to file reports on Form N–CR in a structured data language.[262] In particular, we are proposing to require filing of Form N–CR reports in a custom eXtensible Markup Language (''XML'') -based structured data language created specifically for reports on Form N–CR (''N–CR-specific XML''). We believe use of an N–CR-specific XML language would make it easier for money market funds to prepare and submit the information required by Form N–CR accurately, and would make the submitted information more useful to investors and the Commission. A structured data language would allow tools to be developed so that users can sort and filter the available data according to specified parameters.

Reports on Form N–CR are currently required to be filed in HTML or ASCII.[263] We understand that, in order to prepare reports in HTML and ASCII, money market funds generally need to reformat required information from the way the information is stored for normal business uses. In this process, money market funds typically strip out incompatible metadata (*i.e.,* syntax that is not part of the HTML or ASCII specification) that their business systems use to ascribe meaning to the stored data items and to represent the relationships among different data items. The resulting code, when rendered in an end-user's web browser, is comprehensible to a human reader, but it is not suitable for automated validation or aggregation.

In recent years we have gained experience with different reporting data languages, including with reports in an XML-based structured data language. For example, we have used customized XML data languages for reports filed on Form N–CEN and Form N–MFP.[264] We

[257] Proposed Items E.1 through E.4 of Form N–CR.

[258] Proposed Item E.3 of Form N–CR.

[259] Proposed Item E.4 of Form N–CR.

[260] Proposed Instruction to Part E of Form N–CR.

[261] If a fund initially falls below only one threshold and then subsequently falls below the other threshold, the proposal would require a second Form N–CR report. For example, if a fund dropped below 25% weekly liquid assets on Tuesday and dropped below 12.5% daily liquid assets on Thursday, it would be required to file two separate reports to disclose each liquidity threshold event. Additionally, if a fund fell below either threshold and subsequently resolved the liquidity threshold event before an initial or amended report is filed, the fund would still be required to report the liquidity threshold event and the facts and circumstances leading to the liquidity threshold event.

[262] *See* proposed General Instruction D of Form N–CR (specifying that reporting persons must file reports on Form N–CR electronically on EDGAR and consult the EDGAR Filer Manual for EDGAR filing instructions). *See also* 17 CFR 232.301 (requiring filers to prepare electronic filings in the manner prescribed by the EDGAR Filer Manual).

[263] *See* Regulation S–T, 17 CFR 232.101(a)(1)(iv); 17 CFR 232.301; EDGAR Filer Manual (Volume II) version 59 (September 2021), at 5–1 (requiring EDGAR filers generally to use ASCII or HTML for their document submissions, subject to certain exceptions).

[264] *See e.g.,* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (adopting Form N–CEN); 2010 Adopting Release (adopting Form N–MFP).

have found the XML-based structured data languages used for those reports allow investors to aggregate and analyze reported data in a much less labor-intensive manner than data filed in ASCII or HTML. Based on our understanding of how funds currently disclose required information in a structured data language, we believe that requiring a Form N–CR-specific XML language would minimize reporting costs while yielding more useful data for investors and the Commission, as applicable. Money market funds would be able, at their option, either to submit XML reports directly or use a web-based reporting application developed by the Commission to generate the reports, as funds are able to do today when submitting holdings reports on Form N–CEN.

We recognize that Form N–CR filers could bear some additional reporting costs related to adjusting their systems to a different data language. However, many money market funds have acquired substantial experience with reporting on web-based applications (or directly submitting information in a structured data language). For example, money market funds currently file Form N–MFP on a monthly basis to report their portfolio holdings and other information to the Commission in a custom XML language. We believe that aligning Form N–CR's reporting data language with the type of data language of other required reports, including Form N–MFP, may reduce costs and introduce additional efficiencies for money market funds already accustomed to reporting using structured data and may reduce overall reporting costs in the longer term. Furthermore, even if there are increased costs, we believe that the benefits to investors and the Commission of making the information more usable would justify these costs.

We request comment on the reporting data language we are proposing to require for reports filed on Form N–CR, and, in particular, on the following:

109. Should we require, as we are proposing, Form N–CR reports to be filed in an N–CR-specific XML language? Is an N–CR-specific XML language the appropriate type of data language for Form N–CR reports? Why or why not? If another structured data language (*e.g.,* Inline eXtensible Business Reporting Language), would be more appropriate, which one, and why?

110. Would this proposed requirement yield reported data that is more useful to investors, compared with not requiring Form N–CR to be filed in an N–CR-specific XML language, or requiring Form N–CR to be filed in a structured data language other than an N–CR-specific XML language?

111. Should any subset of funds be exempt from the proposed structured data reporting requirement? If so, what subset and why?

112. What implementation and long term costs, if any, would be associated with the proposed structured data reporting requirement?

c. Other Proposed Amendments

In addition to the proposed items related to liquidity threshold events and the proposed structured data language requirement, we are proposing a few other amendments to Form N–CR. To improve the identifying information for the registrant and series reporting an event on Form N–CR, we are proposing to require the registrant name, series name, and legal entity identifiers (''LEIs'') for the registrant and series.[265] We also propose to add definitions of LEI, registrant, and series to the form for clarity, and the definitions of these terms would be the same as on Form N–MFP.[266] Further, we are proposing to remove the reporting events that relate to liquidity fees and redemption gates, consistent with our proposal to remove the underlying provisions from rule 2a–7.[267] We also propose an amendment to Part C of Form N–CR, which relates to the provision of financial support to the fund. Specifically, when the support involves the purchase of a security from the fund, we propose to require the date the fund acquired the security, which would allow better identification of, and context for, support that occurs within a short period of time. For example, if the fund purchased the security a few days before the affiliate acquired it, this could suggest that the risk profile of the security deteriorated rapidly.

We request comment on the other proposed amendments to Form N–CR:

113. Should we require reporting of registrant name, series name, and LEIs for the registrant and series on Form N–CR, as proposed? Is there other identifying information we should require?

114. Should we make any changes to the definitions we propose to include in Form N–CR? Are there other terms we should define in the form?

115. For the Form N–CR item requiring reporting of financial support, should we require reporting of the date the fund acquired a security, as proposed, if the support involves the purchase of a security from the fund?

2. Amendments to Form N–MFP

Form N–MFP is the form that money market funds use to report their portfolio holdings and other key information each month.[268] We use the information on Form N–MFP to monitor money market funds and support our examination and regulatory programs. We are proposing amendments to improve our ability to monitor money market funds. The proposed amendments would provide certain new information about a fund's shareholders and disposition of non-maturing portfolio investments. We are also proposing changes to enhance the accuracy and consistency of information funds currently report, to increase the frequency of certain data points, and to improve identifying information for the reporting fund.

a. New Information Requirements

We are proposing to require additional information about the composition and concentration of money market fund shareholders. With respect to shareholder concentration, we are proposing that all money market funds disclose the name and percent of ownership of each person who owns of record or is known by the fund to own beneficially 5% or more of the shares outstanding in the relevant class.[269] Money market funds currently provide substantially the same information on an annual basis in their registration statements.[270] We believe more frequent information about shareholder concentration would be helpful for monitoring a fund's potential risk of redemptions by an individual or a small group of investors that could significantly affect the fund's liquidity. We recognize that as a result of omnibus accounts, there are circumstances in which multiple investors would be

[265] *See* Items A.2, A.4, A.5, and A.7 of proposed Form N–CR. An LEI is a unique identifier generally associated with a single corporate entity and is intended to provide a uniform international standard for identifying counterparties to a transaction. Money market funds are already required to report LEIs for a registrant and series on Form N–CEN. *See* Items B.1 and C.1 of Form N–CEN.

[266] *See* proposed General Instruction F of Form N–CR.

[267] *See* Parts F through G of current Form N–CR.

[268] *See* rule 30b1–7 under the Investment Company Act.

[269] *See* proposed Item B.10 of Form N–MFP. If the fund knows that two or more beneficial owners of the class are affiliated with each other, the fund would treat them as a single beneficial owner for purposes of the 5% ownership calculation and would report information about each affiliated beneficial owner. For these purposes, an affiliated beneficial owner would be one that directly or indirectly controls or is controlled by another beneficial owner or is under common control with another beneficial owner.

[270] *See* Item 18 of Form N–1A.

represented as a single shareholder of record for purposes of this disclosure.[271] The proposal would require information about beneficial owners known by the fund in recognition that funds may not have information about the amount each beneficial owner holds in an omnibus account. The proposed item would distinguish between record owners and beneficial owners to facilitate a more nuanced understanding of potential concentration levels. We are proposing to require funds to use a 5% ownership threshold for this reporting requirement to align with analysis funds already must conduct each year for purposes of updating their registration statements.[272]

We also propose to require a money market fund that is not a government money market fund or a retail money market fund to provide information about the composition of its shareholders by type.[273] The proposed item would require these funds to identify the percentage of investors within the following categories: Non-financial corporation; pension plan; non-profit; state or municipal government entity (excluding governmental pension plans); registered investment company; private fund; depository institution and other banking institution; sovereign wealth fund; broker-dealer; insurance company; and other. This information would assist with monitoring the liquidity and redemption risks of institutional money market funds, as different types of investors may pose different redemption risks. We are not proposing to require this information of government money market funds because these funds have lower redemption and liquidity risks than other money market funds. We are not proposing to apply this requirement to retail funds because these funds, by definition, are limited to retail investors.

In addition, we propose to add new Part D to Form N–MFP, which would require information about the amount of portfolio securities a prime money market fund sold or disposed of during the reporting period. This information would facilitate monitoring of prime money market funds' liquidity management, as well as their secondary market activities in normal and stress periods. It also would improve the availability of data about how selling activity by money market funds relates to broader trends in short-term funding markets. The proposal would require a prime fund to disclose the aggregate amount it sold or disposed of for each category of investment.[274] The categories of investments would mirror the categories funds already use on Form N–MFP for identifying their month-end holdings (*e.g.,* certificate of deposit, non-negotiable time deposit, financial or non-financial company commercial paper, or U.S. Treasury debt).[275] To focus the disclosure on secondary market activity, the proposal would exclude portfolio securities the fund held until maturity. We are proposing to require only prime funds to provide information about securities sold or disposed of because we believe that asset liquidation by this type of money market fund contributed to the market stress in March 2020 and during the 2008 financial crisis. In contrast, government funds generally receive inflows during periods of market stress and tend to provide liquidity to the market by investing incoming cash flow in the repurchase agreement market and purchasing securities. Tax-exempt funds are only a small segment of the money market fund industry and are less likely to generate significant liquidity concerns for the broader municipal market.

As described above in the proposed swing pricing requirement section, we also propose to amend Form N–MFP to require money market funds that are not government money market funds or retail money market funds to report the number of times the fund applied a swing factor over the course of the reporting period, and each swing factor applied. In that section, we requested comment on these swing pricing-related amendments to Form N–MFP.

We request comment on the new items we propose to add to Form N–MFP, including:

116. Should we require all money market funds to disclose information about shareholder concentration on Form N–MFP, as proposed? Should certain types of funds be excluded and, if so, why? Should the reporting threshold be ownership of at least 5% of a class's shares outstanding, as proposed? Should the threshold be lower or higher, such as 1%, 10%, or 15%? Instead of requiring information about shareholders who hold a certain amount of a class's outstanding shares, should we use a different method of obtaining information about shareholder concentration? For example, should we require funds to report the amount of net assets held by a specific number of the fund's largest investors, such as the one, five, or ten largest investors?

117. As proposed, should the shareholder concentration item require the name and percentage of ownership for each shareholder who owns of record or beneficially 5% or more? Should we require different information for some or all types of investors? For example, should we not require name information for retail investors or other types of investors? As another alternative, should we require funds to report only the number of investors who own of record or beneficially 5% or more, distinguishing between record owners and beneficial owners? Additionally, should this information, as proposed, be reported on a non-confidential basis? Is there any sensitivity to identifying shareholder information such that it should only be reported to the Commission on a confidential basis?

118. Do funds currently gather information about shareholder concentration and composition on at least a monthly basis, or would the proposal require more frequent gathering of information than current practices? If more frequent information gathering would be required, what are the associated advantages and disadvantages of assessing shareholder concentration and composition more frequently? Should we require funds to report this information on Form N–MFP less frequently than proposed, such as annually, semiannually, or quarterly?

119. Should we require institutional prime and tax-exempt money market funds to provide information about the composition of their shareholders by type, as proposed? Are there any changes we should make to the types of shareholders the form would identify? Should certain shareholder categories be added or removed? Should we provide additional guidance or definition for any of the categories of shareholders? Should we also require government money market funds to respond to this item? If so, why?

120. To what extent do money market funds know when an investor beneficially owns 5% or more of a class's outstanding shares when those shares are held through an omnibus account? To what extent do institutional money market funds know the composition of their shareholders by type? Are there any changes we should make to facilitate money market funds' abilities to collect this information, including for investors who invest through an omnibus account? For example, should we preclude a money market fund from selling its securities to

[271] Omnibus accounts are accounts established by intermediaries that typically aggregate all customer activity and holdings in a money market fund, which can result in the fund not having information about individual beneficial owners who hold their shares through the omnibus account.

[272] *See* Item 18 of Form N–1A.

[273] *See* proposed Item B.11 of Form N–MFP.

[274] *See* Item D.1 of proposed Form N–MFP.

[275] *See* Item C.6 of current Form N–MFP.

a financial intermediary in nominee name on behalf of others unless the intermediary provides certain information about investors in the fund (such as size of holding, type of investor, or other investor characteristics)?

121. Should we require prime funds to disclose aggregate information about the amount of portfolio securities they sold or disposed of during the reporting period for each category of investment, as proposed? Should we instead require details about each instrument sold (*e.g.,* date of sale, price, and identifying information for each holding)? Should we instead consider requiring that prime funds report information about the amount of portfolio securities sold or disposed of on Form N–CR if the amount is above a specific threshold? If so, what amount of selling activity should trigger such reporting?

122. Should we require only some money market funds to disclose their selling activity, as proposed? Should we alternatively require all, or a broader subset of, money market funds to disclose this information?

123. Are there other types of information we should require money market funds to report on Form N–MFP to facilitate monitoring of these funds?

b. Changes To Improve the Accuracy and Consistency of Currently Reported Information

We are proposing several amendments to improve information about money market funds' portfolio securities. We are proposing to specify that, for purposes of reporting the fund's schedule of portfolio securities in Part C of Form N–MFP, filers must provide required information separately for the initial acquisition of a security and any subsequent acquisitions of the security (*i.e.,* for each lot).[276] Currently, some funds report information separately for each lot, while others do not. Requiring funds to report information separately for each lot would facilitate the Commission's ability to analyze other information we propose to require. Specifically, we are proposing an additional item that would require funds to provide the trade date on which the security was acquired and the yield of the security as of that trade date.[277] These proposed amendments, collectively, would assist the Commission in understanding how long a fund has held a given position and the maturity of the position when it was first acquired. This information is important to understand a money market fund's portfolio turnover during normal market conditions and to monitor a potentially higher level of asset disposition during periods of market stress.

Form N–MFP requires filers to report particular information about funds' repurchase agreements. We are proposing to amend the form to require additional information about repurchase agreement transactions and to standardize how filers report certain information. Specifically, the amendments would require that filers identify (1) the name of the counterparty in a repurchase agreement; (2) whether a repurchase agreement is centrally cleared and the name of the central clearing counterparty, if applicable; (3) if a repurchase agreement was settled on a triparty platform; and (4) the CUSIP of the securities involved in the repurchase agreement. Currently, Form N–MFP simply asks for the name of the issuer. For repurchase agreements, filers sometimes report the name of the counterparty to the repurchase agreement, the name of the clearing house (in the case of centrally cleared repurchase agreements), or both in response to this item. In addition, the amendments would recognize changes that have occurred in the market for repurchase agreements since the form was last amended, such as the introduction of centrally cleared (or ''sponsored'') repurchase agreements. These proposed amendments would improve the Commission's monitoring of money market fund activity in various segments of the market for repurchase agreements, including potentially increased or decreased activity during periods of market stress, which may affect availability of funding for borrowers.

We are also proposing to include ''cash'' as a category of investment that most closely represents the collateral in repurchase agreements.[278] This amendment is designed to recognize that cash is sometimes used as collateral for repurchase agreements, and we expect that the addition would reduce inaccurate disclosure suggesting that a repurchase agreement is under-collateralized. Moreover, we are proposing to remove the ability for funds to aggregate certain required information if multiple securities of an issuer are subject to the repurchase agreement.[279] Removing this provision would provide more complete information about securities subject to a repurchase agreement.

Form N–MFP currently requires filers to indicate the category of money market fund.[280] These categories include ''Treasury,'' ''Government/Agency,'' and ''Exempt Government,'' among others. We understand that these categories for government money market funds have contributed to confusion and inconsistent approaches to categorization. We are proposing to remove these three category designations and to replace them with one ''Government'' category.[281] To differentiate between Treasury funds and other government funds, the proposal includes a new subsection that requires government money market funds to indicate whether they typically invest at least 80% of the value of their assets in U.S. Treasury obligations or repurchase agreements collateralized by U.S. Treasury obligations.[282] We believe that these amendments would provide more clarity for filers and supply the Commission with more accurate identification of different types of government money market funds.

We are proposing a new item in Form N–MFP that would require filers to indicate whether the fund is established as a cash management vehicle for affiliated funds and accounts.[283] This item would make it easier and more efficient to identify privately offered institutional money market funds. Our proposal also includes an amendment to

[276] *See* introductory language to Part C of proposed Form N–MFP.

[277] *See* Item C.6 on proposed Form N–MFP. Because the proposed amendments separately request the yield at the time of acquisition, we are proposing to remove language in Item C.2 requiring filers to include the coupon, if applicable, in response to that item.

[278] *See* Item C.9.k of Form N–MFP (currently listing as categories of investments that most closely represents the collateral: Asset-backed securities; agency collateralized mortgage obligations; agency debentures and agency strips; agency mortgage-backed securities; private label collateralized mortgage obligations; corporate debt securities; equities; money market; U.S. Treasuries (including strips); and other instruments).

[279] *See* Item C.8 of Form N–MFP.

[280] Item A.10 of Form N–MFP.

[281] *See* proposed Item A.10 of Form N–MFP. We also propose to add definitions for ''government money market fund'' and ''retail money market fund'' in the form, which would be consistent with the definitions of these terms in rule 2a–7. Including these definitions in the form would clarify the meaning of references to these terms in this item and elsewhere in the form. *See* General Instruction E of proposed Form N–MFP. Because under this approach the definition of ''retail money market fund'' would be clear for purposes of the form, we also propose to amend Item A.10.a to use this defined term, rather than refer to exempt retail money market funds. *See* proposed Item A.10.a of Form N–MFP.

[282] *See* proposed Item A.10.b of Form N–MFP. The 80% investment standard is based on 17 CFR 270.35d–1 (rule 35d–1 under the Investment Company Act), which requires a money market fund that includes ''Treasury'' in its name to adopt a policy to invest, under normal circumstances, at least 80% of its assets in the particular type of investment the fund's name suggests.

[283] *See* proposed Item A.21 of Form N–MFP.

enhance consistency of reporting of whether a fund seeks to maintain a stable price per share.[284] Currently, the form provides that if a fund seeks to maintain a stable price per share, it must state the price it seeks to maintain. However, if a fund does not respond to this item, it is unclear whether the fund did so in error or simply does not seek to maintain a stable price per share. The proposed amendment would require a fund to respond ''yes'' or ''no'' to whether it seeks to maintain a stable price per share so as to avoid any ambiguity.

Currently, funds are required to provide the name of any person who paid for or waived all or part of the fund's operating expenses or management fees during the reporting period and describe the amount and nature of the fee and expense waiver or reimbursement. These disclosures are difficult to use, as they are provided in a format that is not structured.[285] Moreover, the identification of the person who paid for or waived the fund's expenses or fees is not significantly beneficial to the Commission's monitoring and assessment of fund risks. While we continue to believe that shareholders should have access to this information, we believe that it is unnecessary to include in Form N–MFP since disclosure related to fees and expenses is available in funds' financial statements. Accordingly, we are proposing to require funds to report only the amount of any fee waiver or expense reimbursement during the reporting period.[286] This proposed change would make it easier for the Commission and investors to analyze efficiently the reported data.

For each portfolio security, a fund is required to indicate on Form N–MFP the category of instrument, using a list of categories designated in the form.[287] We are proposing to include a new category that distinguishes between U.S. Government agency notes that are coupon-paying and those that are no-coupon discount notes.[288] We believe that including this distinction would allow us to better understand whether an agency security should be categorized as a weekly liquid asset, as only agency discount notes with less than 60 days to maturity can be considered weekly liquid assets under the rule. We are also proposing a conforming change to the list of investment categories that a fund must use for purposes of disclosing information about its holdings on its website.[289]

We request comment on the proposed amendments to improve the accuracy and consistency of currently reported information on Form N–MFP, including the following:

124. Is the proposed requirement that funds provide required information separately for the initial acquisition of a security and any subsequent acquisitions of the security appropriate? Why or why not? Should we require funds to report the acquisition date and yield as of the acquisition date for each lot, as proposed? Are there better ways for us to assess how long a fund has held a position and its portfolio turnover? If so, how?

125. Should we, as proposed, require additional information about the counterparty to the repurchase agreement and information about whether a repurchase agreement is centrally cleared or a triparty agreement? Are there other ways we could acquire this information?

126. As proposed, should we require the CUSIP of the collateral subject to the repurchase agreement and add a category for cash collateral? As proposed, should we remove the provision that allows funds to aggregate information about multiple securities of an issuer that are subject to a repurchase agreement? To what extent do funds currently rely on this provision? What are the potential effects of our proposal to remove this provision? Is there any additional information related to repurchase agreement transactions that we should require?

127. Should Form N–MFP require registrants to provide Financial Instrument Global Identifier for securities, if available? Should Form N–MFP permit registrants to report the Financial Instrument Global Identifier in lieu of a CUSIP number on Form N–MFP? Why or why not?

128. Are our proposed amendments to consolidate how funds would identify different types of government money market funds effective? Is our proposed approach to identifying funds that should be classified as Treasury funds appropriate?

129. Is our proposed item to identify money market funds established as cash management vehicles for affiliates or other related entities sufficiently clear? Are there any changes we should make to that item? Is there a more effective way of identifying these funds? Would this question be more appropriate on a different form instead of Form N–MFP, for example, Form N–CEN?

130. Should we simplify disclosure of any fee waiver or expense reimbursement during the reporting period, as proposed? What scope of arrangements do funds currently report as fee waivers or expense reimbursements on Form N–MFP? For example, do they include offsets or credits (*e.g.,* custodian credits)? Do funds need additional clarity or guidance on the types of arrangements to report? Instead of our proposed approach, should we retain information about the person waiving the fee or reimbursing the expense and a description of the fee waiver or expense reimbursement? For example, to better structure the item, should we require filers to identify the type of waiver or reimbursement on Form N–MFP (*e.g.,* management fees, 12b–1 fees)? Why or why not? Should we require filers to provide a reason for the waiver or reimbursement? For instance, should the item require that filers designate whether such actions were taken to maintain a particular expense ratio or a minimum level of yield? Why or why not?

131. As proposed, should we require funds to distinguish between U.S. Government agency notes that are coupon-paying and those that are no-coupon discount notes when categorizing their portfolio securities on Form N–MFP? Would this information be helpful for identifying securities that qualify as weekly liquid assets? Should we also require funds to distinguish between these two categories for purposes of disclosing portfolio securities on their websites, as proposed?

132. Are there other changes or additions that would improve the accuracy and consistency of the required reported information on Form N–MFP?

c. More Frequent Data Points

Under current rule 2a–7, a money market fund must prominently disclose on its website, as of the end of each business day during the preceding six months, the fund's percentage of total assets invested in daily liquid assets and in weekly liquid assets, as well as the fund's net asset value per share (including for each class of shares) and net shareholder flow.[290] Currently, in monthly reports on Form N–MFP, a money market fund must provide the

[284] *See* proposed Item A.18 of Form N–MFP (proposing to require a fund to respond ''yes'' or ''no'' to whether it seeks to maintain a stable price per share).

[285] Item B.8 of Form N–MFP.

[286] *See* proposed Item B.9 of Form N–MFP.

[287] Item C.6 of Form N–MFP.

[288] *See* proposed amendments to Item C.7 of Form N–MFP.

[289] *See* proposed rule 2a–7(h)(10)(i)(B)(*2*).

[290] 17 CFR 270.2a–7(h)(10)(ii).

same general information for each Friday during the month reported.[291] Based on the Commission's experience with using current Form N–MFP data to analyze the events of March 2020 and other periods, we are proposing to amend Form N–MFP to require a money market fund to provide in its monthly report this liquidity, net asset value, and flow data for each business day of the month, rather than on a weekly basis.

We are proposing to require daily liquidity, net asset value, and flow data in monthly reports to allow Commission staff to better and more precisely monitor risks and trends in these areas in an efficient and more precise manner without requiring frequent visits to the websites of many different funds, and to provide industry-wide daily data in a central repository as a resource for investors and others.[292] The weekly data currently reported on Form N–MFP provides only a snapshot of the liquidity, net asset value, and flow data for any given month, and is therefore incomplete and less useful for purposes of analysis and monitoring than data for each business day in that month. In addition, most of the data on Form N–MFP is reported as of the end of the month, making it difficult to analyze the weekly data in a comprehensive manner. This is because the weekly data points generally relate to different days than the monthly data points. Although data vendors provide some daily data based on information gathered from funds' websites, the staff has found this data could be incomplete at times, and therefore may not be appropriate for purposes of staff monitoring and analyses. As money market funds generally are already required to report on their websites the same data that we propose requiring be reported on Form N–MFP, we believe this change would impose minimal burden on money market funds. Consistent with the website information funds already provide, the reported daily data points would be calculated as of the end of each business day.

We are also proposing to increase the frequency with which funds report certain yield information. Currently, funds must report 7-day gross yields (at the series level) and 7-day net yields (at the share class level) as of the end of the reporting period. We propose to require funds to report this information each business day. We believe the higher-frequency reporting would assist in the timely monitoring and assessment of fund risks, particularly during periods of market stress.

We request comment on our proposal to require daily liquidity, net asset value, flow, and yield data in monthly Form N–MFP reports, including on the following:

133. Should we, as proposed, require liquidity, net asset value, and flow data to be reported as of the close of business on each business day of each month? Would funds incur significantly higher costs than under the current weekly data reporting requirement? Please describe the associated costs.

134. Would our new proposed requirements help us better identify certain risk characteristics that the form currently does not capture?

135. Are there other ways to monitor risks and trends in fund liquidity, valuation, and shareholder flow in a more efficient and precise manner without requiring frequent visits to the websites of many different funds?

136. When reporting required flow information on Form N–MFP, money market funds must include dividend reinvestments in the gross subscriptions figure.[293] After last amending Form N–MFP, the Commission adopted Form N–PORT, which requires other types of registered management investment companies to report shares sold in connection with reinvestments of dividends and distributions separately.[294] Should we similarly require money market funds to report dividend reinvestments and distributions separately? Would using an approach that is similar to Form N–PORT benefit fund complexes by allowing them to use consistent systems across different types of mutual funds for purposes of reporting flow information and allow the Commission and investors to better identify whether the fund is receiving new subscriptions? Or would such a change burden fund complexes and require systems changes, without significantly enhancing the current data because dividend reinvestments by money market fund investors are less substantial than for other fund types?

137. Should we, as proposed, require money market funds to report 7-day yield information each business day? What are the advantages and disadvantages of requiring higher-frequency reporting of yield information? Should we instead require funds to report this information for each Friday of the month and for month-end, or on a different time cycle?

d. Other Amendments

Form N–MFP currently provides that a filer must disclose the registrant's LEI, if available, and does not require the LEI of the series.[295] Filers also provide the name of the registrant and series in metadata associated with the form, but filers do not report these names on the form itself. We are proposing to require funds to identify the name and LEI for both the fund registrant and the series.[296] Requiring reporting of registrant and series names on the form is meant to make the form easier for investors to use. The change to require LEIs for the registrant and series aligns Form N–MFP with Forms N–CEN and N–PORT, which require LEI reporting for the registrant and series.

Currently, funds must report the LEI that corresponds to a portfolio security, if the LEI is available. We propose to clarify that funds should respond to an item request with ''N/A'' if the information is not applicable (*e.g.,* a company does not have an LEI).[297] We also propose to amend the definition of LEI in the form to remove language providing that, in the case of a financial institution that does not have an assigned LEI, a fund should instead disclose the RSSD ID assigned by the National Information Center of the Board of Governors of the Federal Reserve System, if any.[298] Rather than classify an RSSD ID as an LEI under these circumstances, we propose to add RSSD ID as an additional category of ''other identifiers'' that a fund can use for relevant portfolio securities.[299]

[291] Items A.13, A.20, B.5, and B.6 of Form N–MFP.

[292] To enhance consistency in reporting practices, we propose to specify that filers report gross subscriptions and gross redemptions as of the trade date (rather than as of the settlement date). This proposed change is intended to ensure that funds are reporting the information in the same manner. We also propose to clarify that filers that are master-feeder funds should report the required shareholder flow data at the feeder fund level only. *See* Item B.7 of proposed Form N–MFP. In addition, as discussed above, we are also proposing to amend the net asset value per share disclosures to require that an institutional prime or institutional tax-exempt fund should provide the net asset value per share as adjusted by a swing factor, if applicable. *See supra* Section II.B.4.

[293] *See* Item B.6 of current Form N–MFP.

[294] *See* Item B.6 of Form N–PORT.

[295] *See* Item 3 of current Form N–MFP.

[296] *See* Items 2, 4, 5, and 6 of proposed Form N–MFP. We also propose that funds disclose the full name of the class of series, as the current form only includes the EDGAR class identifier.

[297] *See* General Instruction A of proposed Form N–MFP.

[298] *See* General Instruction F of proposed Form N–MFP for a revised definition of LEI.

[299] *See* Item C.5 of proposed Form N–MFP; General Instruction F of proposed Form N–MFP (adding a definition of RSSD ID). The revised definition of LEI would differ from the definitions of this term in Forms N–CEN, N–PORT, and PF, which allow an RSSD ID for a financial institution to be treated as an LEI if the institution has not been assigned an LEI. However, we do not believe that the different definitions of LEI among these forms

These changes are designed to improve consistency and comparability of information funds report about the securities they hold.

We request comment on our other proposed amendments to Form N–MFP, including the following:

138. Should we require funds to provide both the name and LEI for the registrant and the series and the full name of the class of the series, as proposed? Is there other identifying information about the registrant, series, or class that would be helpful?

139. As proposed, should we amend the definition of LEI in the form and provide a separate item for providing an RSSD ID as a securities identifier, as applicable?

140. Are there other definitions we should amend, include, or exclude from the form? Please explain.

G. Compliance Date

We propose to provide a transition period after the effective date of the amendments to give affected funds sufficient time to comply with the proposed changes and associated disclosure and reporting requirements, as described below. Based on our experience, we believe the proposed compliance dates would provide an appropriate amount of time for funds to comply with the proposed rule if adopted.

• *Twelve-Month Compliance Date.* We propose that 12 months after the effective date of the amendments, any money market fund that is not a government money market fund or a retail money market fund must comply with the proposed swing pricing requirement in rule 2a–7, if adopted, as well as the swing pricing disclosures applicable to these money market funds in the proposed amendments, if adopted, to Forms N–MFP and N–1A.[300] We also propose to provide 12 months after the effective date for government and retail funds to determine, should the rule be adopted, that financial intermediaries have the capacity to redeem and sell at a price based on the current net asset value per share pursuant to rule 22c–1 or prohibit the financial intermediary from purchasing in nominee name on behalf of other persons, securities issued by the fund.[301]

• *Six-Month Compliance Date.* The proposed compliance period for all other aspects of the proposal is six months after the effective date of the amendments, if adopted, and includes the following:

○ The proposed increased daily minimum asset and weekly minimum asset requirements; and

○ The amendments to Forms N–CR and N–MFP, except the swing pricing-related disclosure on Form N–MFP.

• *Effective Date for Amendments Related to Liquidity Fees and Redemption Gates.* Removal of the liquidity fee and redemption gate provisions in rule 2a–7, as well as removal of associated disclosure requirements in Form N–1A and N–CR, would be effective, if adopted, when the final rule is effective.

We request comment on the proposed compliance dates, and specifically on the following items:

141. Are the proposed compliance dates appropriate? If not, why not? Is a longer or shorter period necessary to allow affected funds to comply with one or more of these particular amendments? If so, what would be a recommended compliance date?

142. Should removal of the fee and gate provisions be effective when the final rules become effective, as proposed? Alternatively, should these provisions not be effective until the compliance period ends for the increased liquidity requirements or the swing pricing requirement?

III. Economic Analysis

A. Introduction

The Commission is mindful of the economic effects, including the costs and benefits, of the proposed amendments. Section 2(c) of the Act provides that when the Commission is engaging in rulemaking under the Act and is required to consider or determine whether an action is consistent with the public interest, the Commission shall also consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. The analysis below addresses the likely economic effects of the proposed amendments, including the anticipated and estimated benefits and costs of the amendments and their likely effects on efficiency, competition, and capital formation. The Commission also discusses the potential economic effects of certain alternatives to the approaches taken in this proposal.

Money market funds serve as intermediaries between investors seeking to allocate capital and issuers seeking to raise capital. Specifically, money market funds pool a diversified portfolio of short-term debt instruments (such as government and municipal debt, repurchase agreements, commercial paper, certificates of deposit, and other short-term debt instruments), and sell shares to end investors, who use money market funds to manage liquidity needs. Money market funds play an important role in investors' asset allocation and liquidity management; serve as a source of wholesale funding liquidity in the financial system; and rely on capital subject to daily and intraday redemptions to invest in short-term debt instruments.[302]

As discussed in detail in the sections that follow, the proposal seeks to address liquidity externalities in money market funds. Specifically, redeeming investors impose negative liquidity externalities on investors remaining in the fund (''fund dilution''), which may amplify a first mover advantage in redemptions. For example, when early redemptions force a money market fund to draw down on liquid assets, they reduce overall fund liquidity available for future redemptions. The proposed removal of the tie between weekly liquid assets and redemption gates and the proposed elimination of redemption gates under rule 2a–7 are intended to reduce incentives of investors to redeem early to avoid losing liquidity during a potential gating period. The proposed increases in minimum liquidity requirements are designed to support funds' ability to meet redemptions from cash or securities convertible to cash even in market conditions in which money market funds cannot rely on a secondary or dealer market to provide liquidity, which may reduce transaction costs associated with redemptions and corresponding dilution borne by remaining investors. In addition, the proposed swing pricing requirement for institutional prime and institutional tax exempt money market funds is intended to require redeeming investors to absorb the liquidity costs they impose on the fund and thereby reduce unfairness to and the dilution of shareholders remaining in the fund.

By reducing liquidity externalities in money market funds, the proposal may dampen the risk of runs on money market funds. The possibility that funds may impose gates or fees after crossing a threshold may give rise to additional

would result in confusion or burdens. Form N–MFP would continue to allow a fund to report an RSSD ID for a financial institution when an LEI is not available, similar to the other forms, but it would make it easier to distinguish between the two types of identifiers.

[300] *See* proposed rule 2a–7(c); proposed amendments to Items 4 and 6 of Form N–1A; proposed amendments to Item A.22 of Form N–MFP.

[301] *See* proposed rule 2a–7(h)(ii).

[302] *See* Section III.B.3 for an analysis of portfolio holdings of different types of money market funds.

run risk. As discussed in Section I.B, in March 2020, when some money market funds approached the 30% weekly liquid asset threshold that would permit a fund to impose a gate or a fee, investors became more likely to redeem from those funds. Loss of access to liquidity by investors during the gating period can magnify the incentive to run before the gate is imposed.

The proposal may mitigate liquidity externalities and run risk in money market funds in three ways. First, the proposal would remove the tie between weekly liquid asset thresholds and the possibility that gates or fees will be imposed, which incentivized runs on money market funds and altered portfolio management behavior of money market funds in 2020, based on available evidence. Second, increases in minimum liquidity requirements may improve the ability of funds to meet redemptions, reducing the risk of runs on funds with low liquidity. Third, the proposed swing pricing requirement may partly reduce run risk by reducing the first-mover advantage related to dilution costs.[303]

Money market fund managers' risk-taking incentives may lead them to hold liquidity levels that may be insufficient to meet redemptions in times of stress [304] for at least three reasons. First, some investors may seek to maximize returns,[305] assets with higher liquidity risks deliver higher returns,[306] and fund managers' compensation may be related to fund size and performance.[307] Second, large scale redemptions akin to those experienced by some funds in March 2020 are rare, and estimating the risk of such rare and large scale redemptions is inherently difficult. Third, money market funds do not internalize liquidity externalities that money market fund liquidity management practices may impose on market participants transacting in the same asset classes. While the proposal would not fundamentally change these incentives of money market funds or fund managers, it would require funds to hold a greater share of highly liquid assets. This may reduce the ability of money market funds to invest in less liquid assets in order to reach for yield, reducing the probability that money market funds are unable to meet redemptions with liquid assets and have to sell less liquid holdings at a large haircut. Moreover, future times of stress may involve larger redemptions that would force money market funds to sell less liquid assets to meet redemptions. Thus, the proposal may lower the risk that money market funds do not have enough liquidity to meet redemptions and consequently relying on government backstops or sponsor support.

Many of the benefits and costs discussed below are difficult to quantify. For example, we lack data to quantify the number of funds that had to sell less liquid holdings during March 2020; how funds may adjust the liquidity of their portfolios in response to the proposed liquidity thresholds; the extent to which investors may reduce their holdings in money market funds as a result of the proposed swing pricing requirement; the extent to which investors may move capital from institutional prime to government money market funds; and the reductions in dilution costs to investors as a result of the proposed amendments (which will depend on investor redemption activity and the liquidity risk of underlying fund assets). Form N–MFP data is not sufficiently granular to allow such quantification and many of these effects will depend on how affected funds and investors may react to the proposed amendments. While we have attempted to quantify economic effects where possible, much of the discussion of economic effects is qualitative in nature. We seek comment on all aspects of the economic analysis, especially any data or information that would enable a quantification of the proposal's economic effects.

B. Economic Baseline

1. Affected Entities

a. Money Market Funds

The proposed amendments would directly affect money market funds registered with the Commission. From Form N–MFP data, there are a total of 318 funds with approximately $5 trillion in total net assets that may be affected by various aspects of the proposal. Table 3 and Table 4 below estimate the number and total net assets of funds by fund type as of the end of July 2021. Prime money market funds account for approximately 17% of the total net assets in the industry, whereas municipal money market funds account for approximately 2%.

[303] Factors other than dilution costs—such as falling asset prices and potential differences between a fund's net asset value and execution prices—may also contribute to runs. These and other considerations are discussed in greater detail in Section III.B.2 below.

[304] A large finance literature examines the interplay between maturity transformation, systemic risk, and leverage. *See, e.g.,* Fahri, Emmanuel and Jean Tirole. 2012. ''Collective Moral Hazard, Maturity Mismatch, and Systemic Bailouts''. American Economic Review 102(1): 60–93. *See also* Acharya, Viral, and S Viswanathan. 2011. ''Leverage, Moral Hazard, and Liquidity.'' Journal of Finance 66(1): 99–138. Other papers have examined the effects of government backstops on money market funds. *See, e.g.,* Strahan, Philip, and Basak Tanyeri. 2015. ''Once Burned, Twice Shy: Money Market Fund Responses to a Systemic Liquidity Shock.'' Journal of Financial and Quantitative Analysis 50(1–2): 119–144. *See also* Kim, Hugh Hoikwang. 2020. ''Information Spillover of Bailouts.'' Journal of Financial Intermediation 43.

[305] In a somewhat parallel open end fund context, fund inflows are highly sensitive to fund yields, which can incentivize a reach for yield. *See, e.g.,* Choi, Jaewon, and Mathias Kronlund. 2018. ''Reaching for Yield in Corporate Bond Mutual Funds.'' The Review of Financial Studies. 31(5): 1930–1965. *See also* Kacperczyk, Marcin, and Philipp Schnabl. 2013. ''How Safe are Money Market Funds?'' The Quarterly Journal of Economics, 138(3): 1073–1122. *See also* Fulkerson, Jon, Bradford Jordan, and Timothy Riley. 2013. ''Return Chasing in Bond Funds.'' Journal of Fixed Income, 22(4): 90–103.

[306] *See, e.g.,* Lee, Kuan-Hui. 2011. ''The World Price of Liquidity Risk.'' Journal of Financial Economics 99(1): 136–161. *See also* Acharya, Viral, and Lasse Pedersen. 2005. ''Asset Pricing with Liquidity Risk.'' Journal of Financial Economics, 77(2): 375–410. *See also* Pastor, Lubos, and Robert Stambaugh. 2003. ''Liquidity Risk and Expected Stock Returns.'' Journal of Political Economy 111(3): 642–685.

[307] *See, e.g.,* Ma, Linlin, Yuehua Tang, and Juan-Pedro Gomez. 2019. ''Portfolio Manager Compensation in the U.S. Mutual Fund Industry.'' Journal of Finance 74(2): 587–638.

Table 3: Number of Money Market Funds by Fund Type, as of July 2021.

Category	Fund Type	Count	Share
Prime	Institutional Public	32	10%
	Institutional Nonpublic	9	3%
	Retail	23	7%
Tax Exempt	Institutional	12	4%
	Retail	53	17%
Government & Treasury	Government	139	44%
	Treasury	50	16%
Total	Total	318	100%

Table 4: Money Market Fund Net Assets by Fund Type ($ Billions), as of July 2021.

Category	Fund Type	Net Assets	Share
Prime	Institutional Public	315.8	6%
	Institutional Nonpublic	337.5	7%
	Retail	222.0	4%
Tax Exempt	Institutional	19.8	0%
	Retail	80.7	2%
Government & Treasury	Government	2,787.1	56%
	Treasury	1,222.7	25%
Total	Total	4,985.6	100%

As discussed above, the swing pricing proposal may disproportionately affect funds that strike their NAV at the midpoint price, rather than at the bid price of the securities. One commenter indicated that it and many other U.S. fund complexes value the securities held in money market and bond funds for purposes of computing fund NAVs at the bid price.[308] We lack data to quantify how many institutional prime and institutional tax-exempt funds currently strike their NAV at the midpoint and, to the best of our knowledge, no such data is publicly available. We solicit comment and any data that would enable such quantification.

b. Other Affected Entities

As discussed above, the proposed swing pricing requirement would indirectly affect a large group of intermediaries. Specifically, swing pricing would require certain money market funds to receive more timely flow information before they can strike the NAV and settle trades. As discussed in greater detail below, this may affect all market participants sending orders to relevant money market funds, including broker-dealers, registered investment advisers, retirement plan recordkeepers and administrators, banks, other registered investment companies, and transfer agents that receive flows directly.

In addition, the proposed requirement that stable NAV money market funds determine that intermediaries submitting orders to purchase or redeem the fund's shares have the ability to process transactions at non-stable prices would also affect intermediaries sending flows to these money market funds. As discussed in section II.D, rule 2a–7 already imposes the obligation on money market funds and their transfer agents to have the capacity to redeem and sell securities at prices that do not correspond to a stable price per share.

2. Certain Economic Features of Money Market Funds

Several features of money market funds can create an incentive for their shareholders to redeem shares heavily in periods of market stress. We discuss these factors below, as well as the adverse impacts that can result from such heavy redemptions in money market funds.

a. Money Market Fund Investors

As discussed elsewhere,[309] investors in money market funds have varying investment goals and tolerances for risk. Many investors use money market funds for principal preservation and as a cash management tool. Such investors may be loss averse for many reasons, including general risk tolerance, legal or investment policy restrictions, or short-term cash needs. These overarching considerations may create incentives for money market fund investors to redeem—incentives that may persist regardless of market conditions and even if the other dilution related incentives discussed below are addressed by the proposal.

The desire to avoid loss may cause investors to redeem from certain money market funds in times of stress. For example, as discussed elsewhere, heavy redemptions from prime money market funds and subscriptions in government money market funds during the 2008 financial crisis pointed to a flight to quality, given that most of the assets

[308] *See* Fidelity Comment Letter to the Financial Stability Board, *available at https://www.fsb.org/wp-content/uploads/Fidelity.pdf.*

[309] *See, e.g.,* 2014 Adopting Release, *supra* footnote 12, at 47740.

held by government money market funds have a lower default risk than the assets of prime money market funds.[310] As discussed above, during peak market stress in March 2020, investor redemptions may have been driven by liquidity considerations, among other things.

In addition, as long as investors consider their money market investments as relatively liquid and low risk, the possibility that a fund may impose gates or fees when a fund's weekly liquid assets fall below 30% under rule 2a–7 may contribute to the risk of triggering runs, particularly from institutional investors that commonly monitor their funds' weekly liquid asset levels.[311] As discussed above, some research suggests that, during peak market volatility in March 2020, institutional prime money market fund outflows accelerated as funds' weekly liquid assets went closer to the 30% threshold.[312] In order to avoid approaching or breaching the 30% weekly liquid asset threshold for the possible imposition of redemption gates, money market fund managers may also choose to sell less liquid portfolio securities during times of stress.[313]

b. Liquidity Externalities and Dilution Costs

Money market fund investors can incur dilution costs. Specifically, the value of shares held by investors staying in the fund may be diluted if other fund investors transact at a NAV that does not fully reflect the ex post realized costs of the fund's trading induced by fund flows. Shareholders in floating NAV and stable NAV funds may bear dilution costs in different forms. In floating NAV funds, dilution is reflected in the fund's NAV, which directly affects the yields of shareholders remaining in the fund. In stable NAV funds, dilution costs can accrue until the fund's shadow price declines below $0.995, which may result in the fund breaking the buck and re-pricing its shares below $1.00. Fund sponsors can also choose to absorb some or all of the dilution costs for reputational reasons, but are not obligated to do so.

Several factors can contribute to the dilution of investors' interests in money market funds. First, trading costs can lead to dilution. To effect net redemptions or subscriptions, a fund incurs trading costs. If these costs are realized prior to NAV strike, they are distributed across both transacting and non-transacting investors. However, if these costs are realized after NAV strike, they are borne solely by non-transacting shareholders that remain in the fund. For low levels of net redemptions or subscriptions, the difference between the two scenarios for non-transacting shareholders is low; however, for large net redemptions, the difference in dilution costs borne by non-transacting shareholders can be stark.

Using a stylized example, Figure 2 compares the dilution attributed to trading costs that occurs when a fund trades to meet redemptions after NAV is struck (as is currently the case in the U.S.) with the dilution attributed to trading costs that occurs if a fund is able to trade to accommodate investor redemptions/subscriptions prior to the NAV strike (dotted straight line). This stylized example assumes that a fund holds a single asset whose value is constant, but liquidating the asset incurs a spread/haircut of 10%. Importantly, the haircut assumption in this stylized example is used purely for illustrative purposes; haircuts on assets in money market funds tend to be much smaller. However, this example demonstrates that larger redemptions can contribute nonlinearly to higher dilution for remaining shareholders when a fund trades after the NAV is struck compared to a scenario in which the fund trades before the NAV is struck.[314]

[310] *See id.*

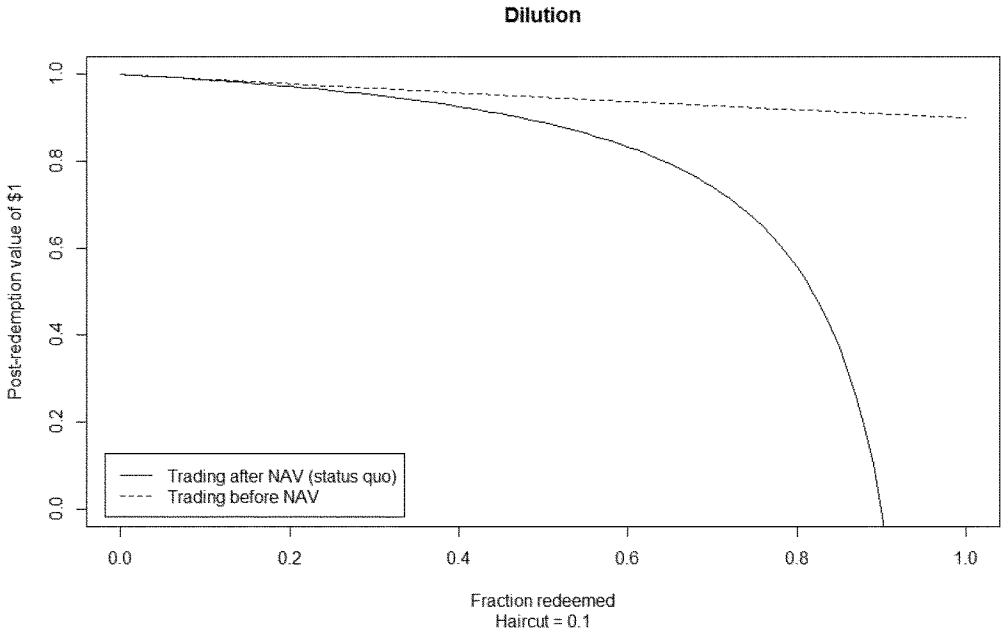
[311] *See, e.g.,* Comment Letter of the Systemic Risk Council (Apr. 12, 2021) (''Systemic Risk Council Comment Letter''); SIFMA AMG Comment Letter; Fidelity Comment Letter.

[312] *See, e.g.,* Li *et al., supra* footnote 31. *See also* ICI MMF Report, *supra* footnote 45.

[313] Some commenters indicated that, on aggregate, prime money market funds pulled back little from commercial paper markets as they were largely unable to resell commercial paper and CDs to issuing banks and such securities lack a liquid secondary market. *See, e.g.,* ICI MMF Report, *supra* footnote 45.

[314] To the degree that some funds may determine their NAV using holdings as of the prior trading day, such practices may also exacerbate dilution. In Figure 2, if funds strike their NAV using current trading day holdings, the dotted line would not be decreasing.

Figure 2: Dilution Effects of Different Trading Timelines over 1 Day.



Second, stale prices could contribute to dilution, especially during times of market stress. Some assets that money market funds hold may become illiquid and stop trading during times of market stress. In such events, the only available prices for these assets are prices realized during pre-stress market conditions, *i.e.,* stale prices. If a floating NAV fund's NAV on a given date is based on stale prices, net redemptions at that NAV can dilute non-transacting fund shareholders when assets are eventually sold at prices that reflect their true value. Since funds with a stable NAV have a fixed share price at $1, stale prices only affect the shadow price per share and the probability that a fund breaks the buck and potentially leads to sponsor support. The stale pricing phenomenon has been documented in fixed income funds [315] and not specifically in money market funds. However, money market funds hold significant amounts of commercial paper, certificates of deposit, and other assets that do not have an active and robust secondary market, making them similarly opaque and difficult to accurately price, especially during times of market stress.

Knowing that these and other factors [316] may contribute to dilution, money market fund investors may have an incentive to redeem quickly in times of stress to avoid realizing potential dilution, an effect exacerbated if they believe other investors will redeem.[317] Some research in a parallel open end fund setting suggests that liquidity externalities may create a ''first-mover advantage'' that may lead to cascading anticipatory redemptions akin to traditional bank runs.[318] There is a dearth of academic research about the degree to which dilution costs alone may trigger money market fund runs. In addition, theoretical models of such first-mover advantage typically rely on some exogenous mechanism to generate initial redemptions from funds.[319] While stale NAV and trading costs can create incentives for early redemptions, redemptions may also occur for reasons that are not strategic, such as a desire to rebalance portfolios under stressed market conditions.

Regardless of the reason for a fund experiencing net redemptions on any given day, such redemptions impose a cost on investors remaining in the fund in the absence of measures to take trading costs into account. In addition, since money market funds can trade portfolio holdings to meet redemptions or subscriptions, money market fund liquidity management can both dampen and magnify disruptions in underlying securities markets.

[315] *See, e.g.,* Choi, Jaewon, Mathias Kronlund, and Ji Yeol Oh. 2021. ''Sitting Bucks: Stale Pricing in Fixed Income Funds.'' Journal of Financial Economics, forthcoming.

[316] For example, market risk may contribute to dilution costs. If a fund redeems investors at a given NAV, but must raise funds to meet those redemptions on a subsequent trading day during which the value of the fund's holdings declines significantly, non-transacting shareholders will be diluted. Conversely, non-transacting money market fund investors can benefit if assets are sold at a price higher than NAV. While the value of the fund's holdings can go both up and down, such market risk amplifies the risk fund shareholders would otherwise experience. However, since true market prices may be very difficult to forecast, the degree to which such dilution contributes to the first mover advantage is unclear.

[317] Similar effects have been shown to create run dynamics in banking contexts. *See, e.g.,* Diamond, Douglas and Philip Dybvig. 1983. ''Bank Runs, Deposit Insurance, and Liquidity.'' Journal of Political Economy 91(3): 401–419.

[318] This research generally models an exogenous response to negative fund returns and not trading costs. However, these results may extend to trading costs to the degree that cost based dilution may reduce subsequent fund returns, which would trigger runs in these models. *See e.g.,* Chen, Qi, Itay Goldstein, and Wei Jiang. 2010. ''Payoff Complementarities and Financial Fragility: Evidence from Mutual Fund Outflows.'' Journal of Financial Economics 97(2): 239–262. *See also* Goldstein, Itay, Hao Jiang, and David Ng. 2017. ''Investor Flows and Fragility in Corporate Bond Funds.'' Journal of Financial Economics 126(3): 592–613. *See also* Morris, Stephen, Ilhyock Shim, and Hyun Song Shin. 2017. ''Redemption Risk and Cash Hoarding by Asset Managers.'' Journal of Monetary Economics 89: 71–87. *See also* Zeng, Yao. 2017. ''A Dynamic Theory of Mutual Fund Runs and Liquidity Management.'' Working Paper. *See also* Ma, Yiming, Kairong Xiao, and Yao Zeng. 2021. ''Mutual Fund Liquidity Transformation and Reverse Flight to Liquidity.'' Working Paper. *See also* Ma, Yiming, Kairong Xiao, and Yao Zeng. 2021. ''Bank Debt versus Mutual Fund Equity in Liquidity Provision.'' Working Paper.

[319] For example, one model assumes that investors redeem from funds following poor performance. *See* Chen, Qi, Itay Goldstein, and Wei Jiang. 2010. ''Payoff Complementarities and Financial Fragility: Evidence from Mutual Fund Outflows.'' Journal of Financial Economics 97(2): 239–262.

3. Money Market Fund Activities and Price Volatility

a. Portfolio Composition and Interplay With Short-Term Funding Markets

As described in the introduction, portfolio composition of money market funds is determined by fund type. Figure 3 and Figure 4 show portfolio holdings of prime and tax-exempt money market funds since 2016.[320] Prime money market funds mostly hold certificates of deposit and time deposits, which average 33% of their portfolio holdings. The second largest category is financial commercial paper, which averages 18% of fund portfolio holdings. These categories of holdings decreased as portfolio shares after March 2020 as prime money market funds increased their Treasury holdings. Tax-exempt money market funds mostly hold variable rate demand notes, which average 50% with a slight downward trend over time. The second largest category is tender options bonds, which average 23%, with a slight upward trend over time. Figure 5 shows differences in portfolio holdings of commercial paper of retail and institutional prime money market funds: Generally retail money market funds have somewhat higher holdings of commercial paper compared to institutional funds. For instance, retail prime money market funds held on average 21% of financial commercial paper compared to 17% for institutional prime money market funds.

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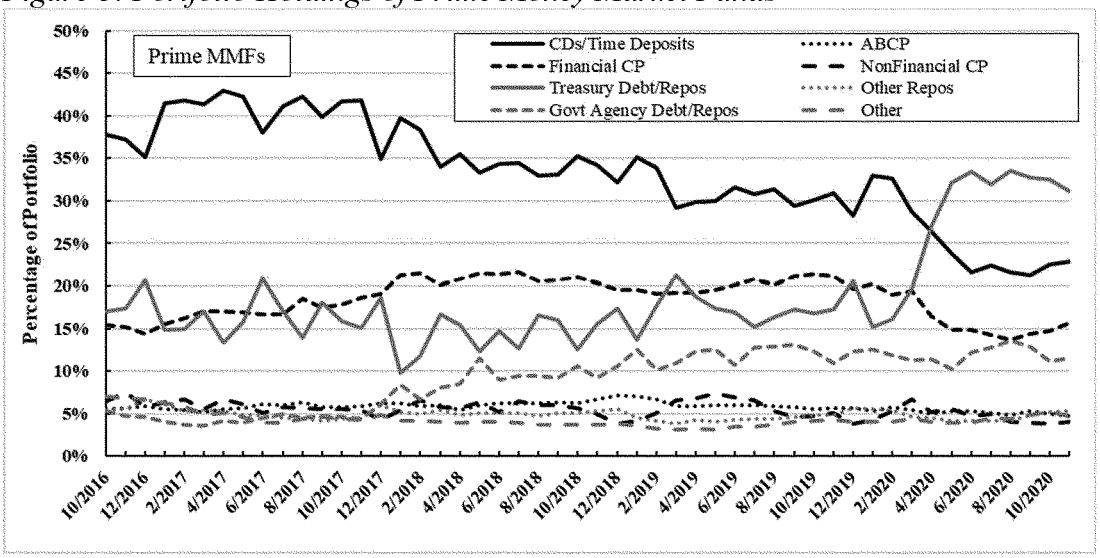
Figure 3: Portfolio Holdings of Prime Money Market Funds[321]



[320] The 2014 money market fund reforms were implemented in 2016. For the purposes of this economic analysis, the Commission's baseline reflects rules currently in effect as well as how money market fund practices and portfolios evolved in the aftermath of the 2014 final rule.

[321] The numbers on the x axis are months and years. CDs/Time Deposits are certificates of deposit or time deposits. Financial CP is commercial paper of issuers in the financial industry. Treasury Debt/Repos are U.S. Treasury obligations or repurchase agreements collateralized by U.S. Treasury securities. Government Agency Debt/Repos are debt securities of Federal agencies and instrumentalities, as well as repurchase agreements collateralized by government agency securities. ABCP is asset-backed commercial paper. Non/Financial CP is commercial paper of issuers not in the financial industry. In a repurchase agreement, one party sells an asset, usually a Treasury security or other fixed income security, to another party with an agreement to repurchase the asset at a later date at a slightly higher price. Repo contracts are a common form of short-term financing. In a repo, the party selling the security is similar to the lender in a securities lending agreement; the party purchasing the security is similar to a borrower in cash collateralized securities lending. In both cases, the transaction is facilitated by cash transfers from the purchaser (borrower) to the seller (lender). In a securities loan, the cash is in the form of collateral while in a repo transaction the cash is payment for the security. In both cases, the purchaser or borrower becomes the legal owner of the security. To unwind the repurchase agreement or securities loan, cash transfers back to the purchaser in terms of the repurchase cost for a repo or in the form of returned collateral in a securities loan. Repos and securities loans differ in that repos typically are primarily used for short-term financing while securities loans typically are used to gain access to the security itself. Also loans generally allow the lender to recall the security on demand while repos do not. Additionally, the cash received by the seller of a repo is often not re-invested but is used to finance the operations of a company whereas the cash received in a securities loan is generally re-invested in low risk fixed income securities for the life of the loan. *See, e.g.,* Gorton, Gary and Andrew Metrick. 2012. ''Securitized Banking and the Run on Repo,'' Journal of Financial Economics 104.

Figure 4: Portfolio Holdings of Tax-Exempt Money Market Funds

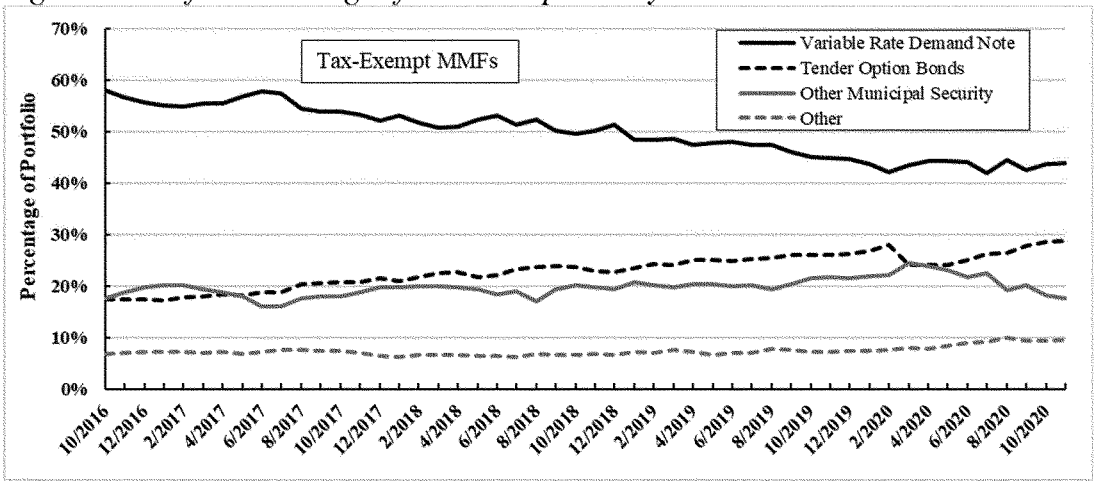
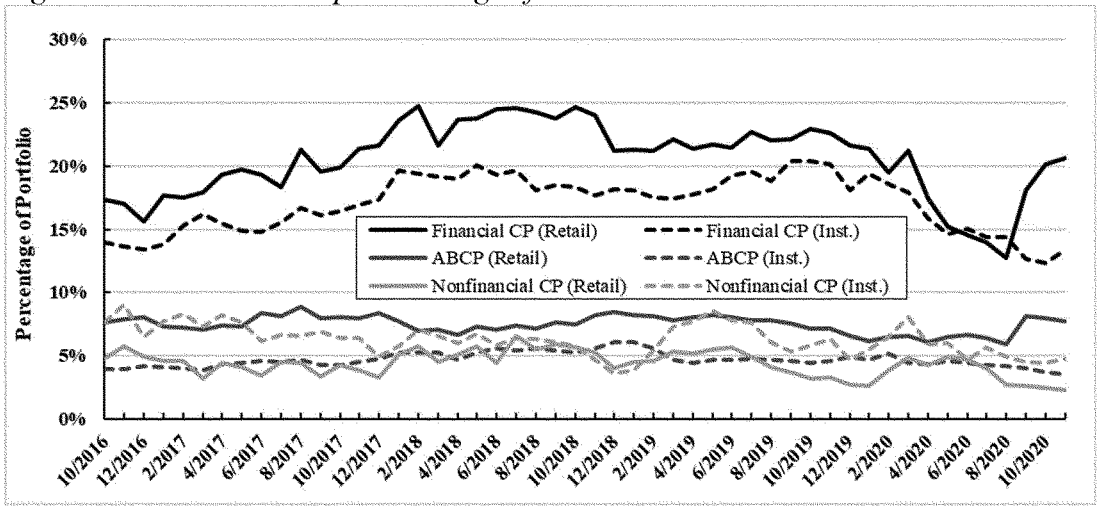
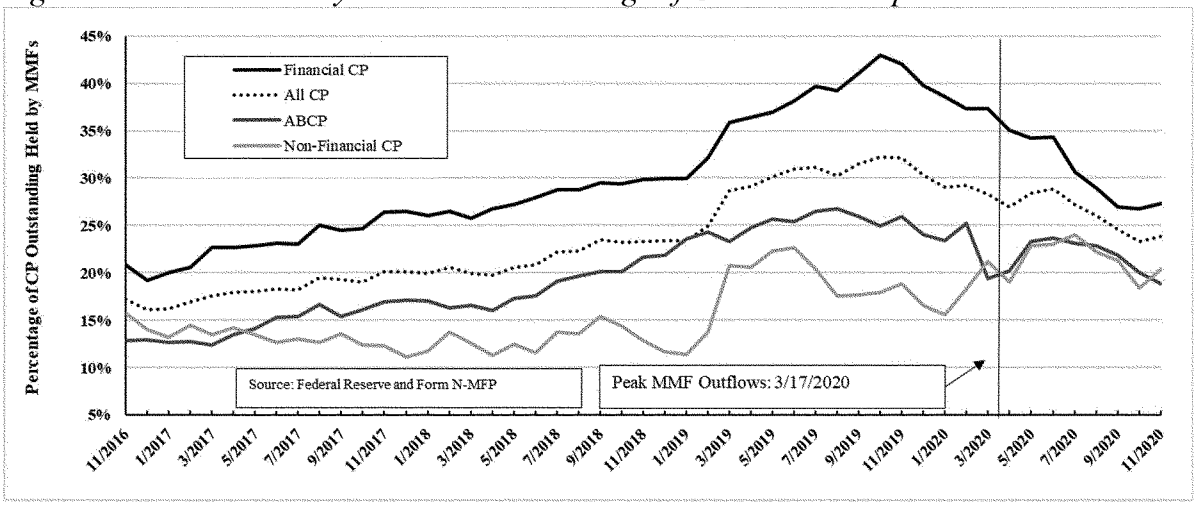


Figure 5: Commercial Paper Holdings of Retail and Institutional Prime Funds



While money market funds are only one type of participant among many in short-term funding markets, money market fund activity may influence short-term funding markets. A wave of redemptions can force money market funds to liquidate portfolio holdings at reduced prices, if they have insufficient cash on hand from maturing daily and weekly liquid assets or cash from subscriptions, which can contribute to stress in underlying short-term funding markets. As a result, money market fund liquidity has the potential to impact underlying securities issuers' ability to raise capital in short-term markets during stress periods. Figure 6 shows trends in holdings of commercial paper by money market funds.

Figure 6: Trends in Money Market Fund Holdings of Commercial Paper



b. NAV and Price Volatility

After the 2014 rule 2a–7 amendments, only one money market fund had its market NAV drop below $.9975 in 2020;[322] however, in a few instances, fund sponsors provided financial support by purchasing securities from affiliated institutional prime money market funds to prevent these funds from dropping below the 30% weekly liquid asset threshold.[323]

To reduce volatility in their market NAVs, money market funds invest in short-term, high-credit-quality, well diversified debt securities pursuant to rule 2a–7. Although the limits on maturity and credit risk of money market fund holdings under rule 2a–7 reduce risks a money market fund may face, they do not eliminate those risks. Risks that remain may cause the fund's market NAV to deviate from $1. Changes in interest rates or a security's credit rating, for example, could put temporary downward pressure on an asset's price before it matures at par. In addition, if any securities were sold or matured for less than the amortized cost, then any deviation between the fund's market price and $1 would become permanent. Finally, an issuer may default on payments of principal or interest, generating losses for funds holding the issuer's securities. If the loss is large enough, a stable NAV fund could break the buck while a floating NAV fund could see a decline in its share price.

We have examined the distribution of market NAVs before and after the compliance date of the 2014 amendments (October 2016).[324] Figure 7 quantifies the trends in the distribution of money market fund market NAVs before and after the 2014 rule amendments went into effect and in the run up to the 2020 market stress. The distribution of money market fund market NAVs, as a whole, changed little over time. However, as can be seen from Figure 8 and Figure 9, the distribution of prime money market fund's market NAVs tightened around the compliance date with the 2014 amendments.

[322] All money market funds have a market NAV, which is a four digit price that is calculated using available market prices and/or fair value market pricing models of the portfolio securities. In contrast, retail and government money market funds also have a stable NAV, which is a two digit price usually set at $1.00 that does not fluctuate and is calculated using amortized cost accounting.

[323] *See, e.g.,* ICI Comment Letter I; Wells Fargo Comment Letter.

[324] This analysis relies on Form N–MFP submissions between November 2010 and November 2020 for all money market funds. From these filings, portfolio holdings and fund characteristics, including fund NAV prices from Item B.5, are extracted for each fund. Item B.5 requires filers to report the net asset value per share as of the close of business on each Friday of the month. To avoid duplication, master funds are removed from the sample: Although feeder funds generally have the same characteristics as their master fund, feeder funds have different investor redemption patterns, which can affect the fund's market price. As a result, Form N–MFP filers generally provide market prices for the feeder funds and leave the market prices for master funds blank or zero.

Figure 7: Distribution of All Money Market Fund Market NAVs from November 2010 to February 2020.

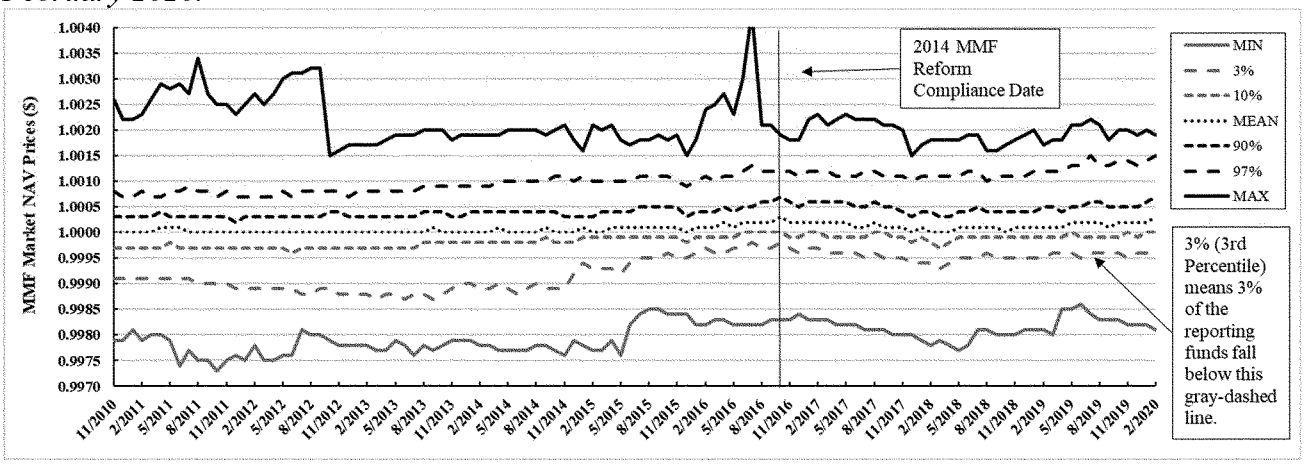


Figure 8: Distribution of Prime Money Market Fund Market NAVs from November 2010 to February 2020.

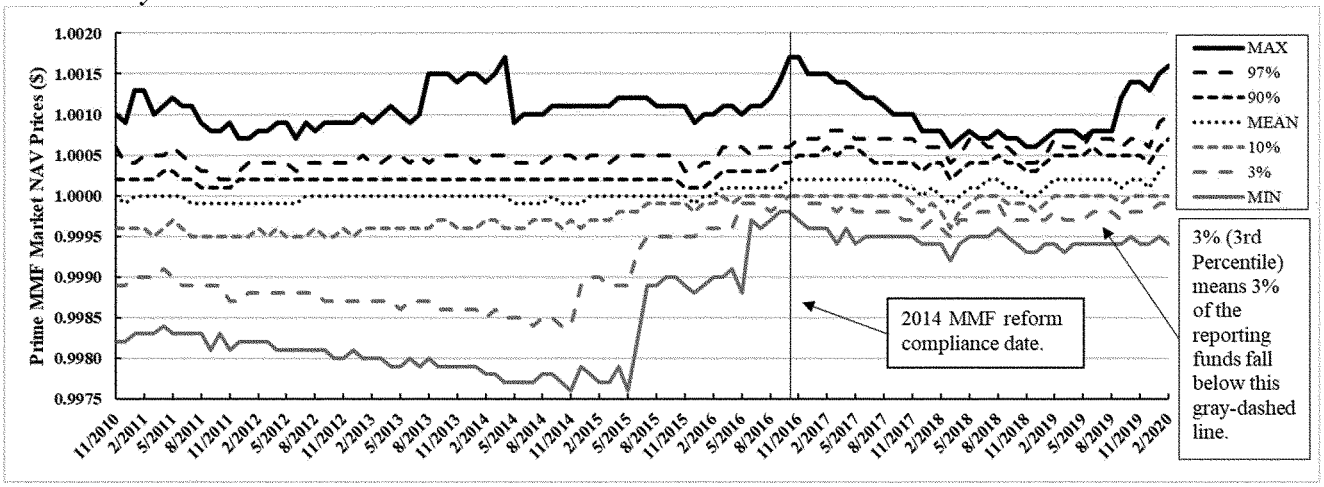
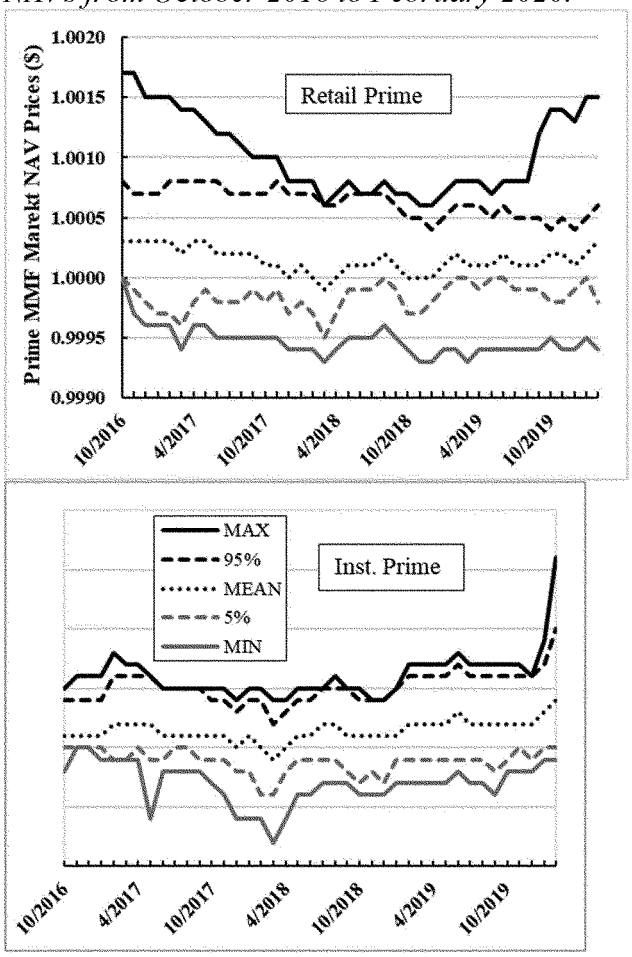


Figure 9: Distribution of Retail and Institutional Prime Money Market Fund Market NAVs from October 2016 to February 2020.



The dispersion of market NAVs across all retail prime money market funds each month in Figure 9 is larger than the dispersion of market NAVs of their institutional counterparts.[325] This result is consistent with the possibility that, following the 2014 amendments, advisers to institutional prime and institutional municipal funds were under increased pressure to keep their weekly liquid assets high and their floating NAV near $1.0000, possibly because sophisticated institutional investors are more likely to track the standard deviations and redeem shares in a crisis.[326] In other words, the baseline daily disclosure of the market prices may allow institutional investors to monitor NAV fluctuations, and may influence the liquidity risk management of money market funds.

Figure 10 and Figure 11 show the distribution of weekly retail and institutional prime money market fund market NAVs during the COVID–19 pandemic, respectively. On average, retail prime money market fund market NAVs dropped from $1.0002 to $0.9994 or 8 bps as a result of the market dislocation. Similarly, the average institutional prime money market fund market NAV dropped from $1.0003 to $0.9994 or 9 bps as a result of the market dislocation. The lowest market NAV for retail prime dropped from $0.9994 to $0.9980 or 14 bps. In contrast, institutional prime money market fund lowest market NAV dropped from $0.9999 to $0.9976 or 23 bps. No prime money market fund market NAV dropped below $0.9975. To the degree that the only available prices for some affected money market fund holdings during March 2020 stress may have been realized during pre-stress market conditions, these NAV fluctuations may underestimate the degree of asset volatility in these funds.

[325] For example, between October 2016 and February 2020 the mean market NAV was $1.0001 with a standard deviation of $0.0003 for retail prime funds and for institutional prime funds the mean market NAV was $1.0001 with a standard deviation of $0.0002.

[326] *See, e.g.,* Response to Questions Posed by Commissioners Aguilar, Paredes, and Gallagher, Page 10, *available at http://www.sec.gov/news/studies/2012/money-market-funds-memo-2012.pdf.*

Figure 10: Distribution of Weekly Retail Prime Money Market Fund Market NAVs During COVID-19

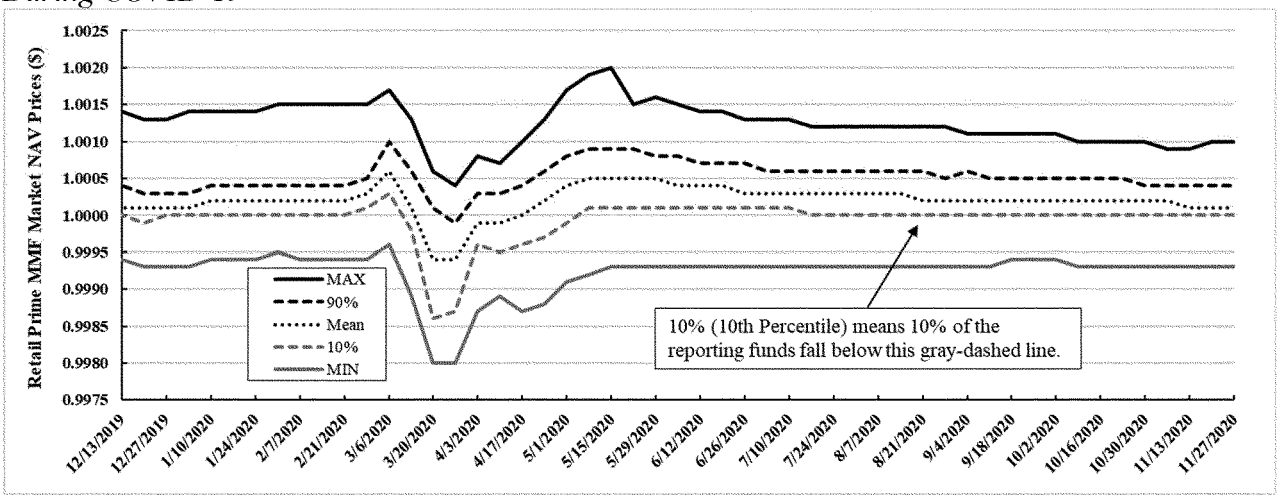
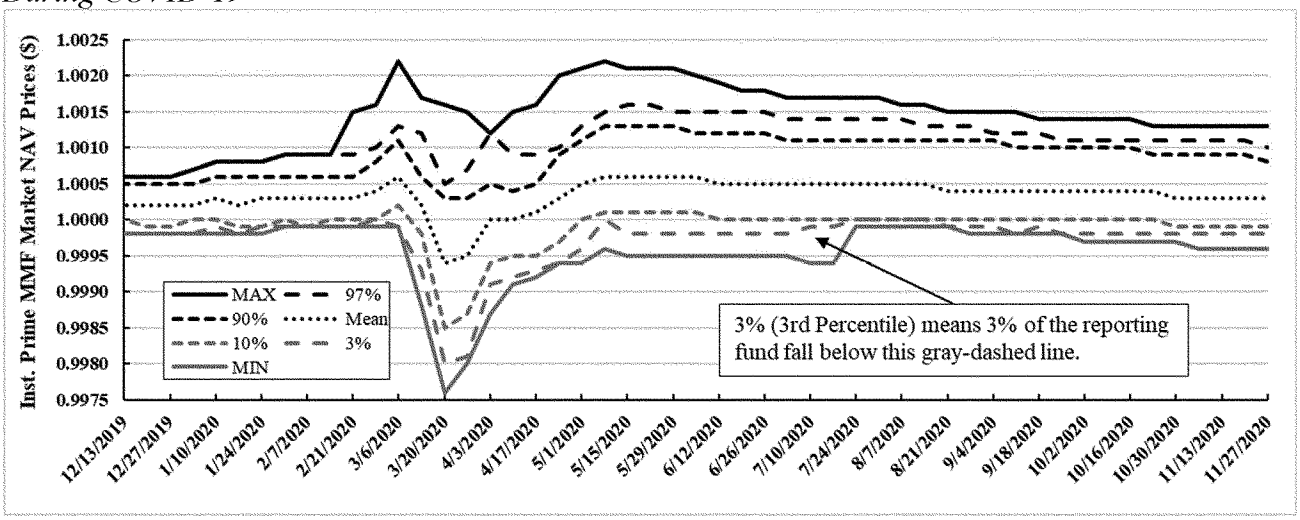
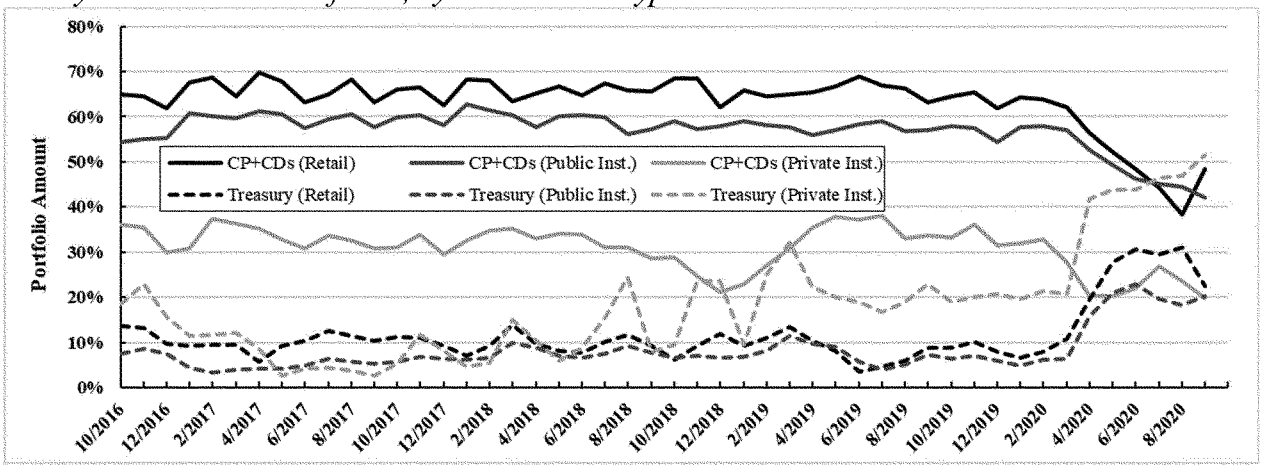


Figure 11: Distribution of Weekly Institutional Prime Money Market Fund Market NAVs During COVID-19



Holdings of retail and institutional money market funds may contribute to NAV volatility of these funds. Figure 12 shows differences in the holdings of Treasuries, commercial paper, and certificates of deposit of retail prime and institutional prime money market funds.

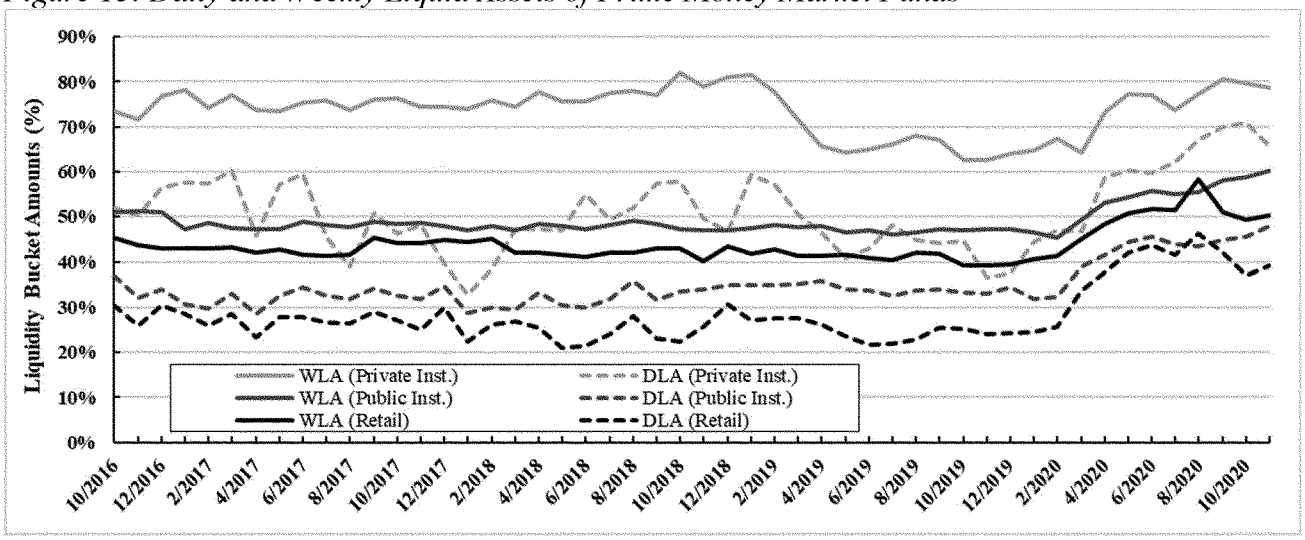
Figure 12: Commercial Paper, Certificates of Deposit, and Treasuries as a Share of Money Market Fund Portfolios, by Prime Fund Type.



c. Liquidity Management

The above portfolio differences between retail and institutional money market funds are also observed in the amount of the daily liquid assets and weekly liquid assets in prime fund portfolios, with retail fund daily and weekly liquid assets being lower than those of institutional funds. Figure 13 reports daily and weekly liquid asset percentages for prime funds.

Figure 13: Daily and Weekly Liquid Assets of Prime Money Market Funds



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During peak volatility in March 2020, some funds experienced a reduction in their daily and weekly liquid asset values as they drew down on their liquid assets to meet large redemptions. Specifically, a high of 6 institutional prime funds on March 18 had weekly liquid assets below 35%, and one of the institutional prime money market funds had weekly liquid assets below 30%.[327] The largest fund outflow was a weekly decrease of 55% in assets under management, and the fund's weekly liquid assets declined from 38.8% to 32.2% over three consecutive days.

C. Costs and Benefits of the Proposed Amendments

1. Removal of the Tie Between the Weekly Liquid Asset Threshold and Liquidity Fees and Redemption Gates

a. Benefits

The proposal would remove the tie between money market funds' weekly liquid assets and the possible imposition of fees and redemption gates, as well as eliminate gate provisions from rule 2a–7. These amendments may benefit money market funds and their investors by reducing the risk of runs on money market funds, especially during times of liquidity stress.

As discussed in the introduction, money market funds use a pool of assets subject to daily redemptions to invest in short-term debt instruments that are not perfectly liquid, which renders them susceptible to a first mover advantage in investor redemptions akin to bank runs.[328] Moreover, money market fund

[327] *See* ICI MMF Report, *supra* footnote 45. ICI also reports that one of the institutional prime money market funds had weekly liquid assets of less than 30% on March 18, 2020. Currently, rule 2a–7 requires that a money market fund comply with the daily and weekly liquid asset standards at the time each security is acquired (rule 2a–7(d)(4)(ii) and (iii)).

[328] *See, e.g.,* Schmidt, Lawrence, Allan Timmermann, and Russ Wermers. 2016. ''Runs on money market mutual funds.'' American Economic Review, 106(9): 2625–57. Run dynamics in funds have been explored in a large body of finance

redemptions can impose liquidity externalities on shareholders remaining in the fund, as discussed in Section III.B.2. The possibility of a redemption fee or gate can magnify those incentives and externalities. Specifically, under the current baseline, money market funds may impose redemption fees or gates if their weekly liquid assets are below 30% of their total assets. Thus, as funds approach the 30% threshold, investors seeking to avoid a redemption gate or fee are incentivized to redeem before other redemptions further deplete a fund's liquid assets. The proposal is expected to reduce such incentives to redeem.

As a result, the proposed removal of the tie between weekly liquid assets and the potential imposition of liquidity fees or redemption gates may better enable funds to use their daily and weekly liquid assets to meet redemptions in times of stress without giving rise to risk of runs.[329] This benefit may be strongest for money market funds that have weekly liquid assets close to the minimum threshold during times of liquidity stress, as they are currently most susceptible to runs. Moreover, money market fund investors would no longer face the possibility of the imposition of gates outside of liquidations, enhancing the attractiveness of money market funds as a highly liquid investment product.

This amendment may also benefit money market fund investors. As discussed above, the weekly liquid asset triggers for the possible imposition of redemption fees or gates create incentives for investors to redeem first, at the expense of investors remaining in the fund who experience further dilution during the gating period. The proposed removal of the weekly liquid asset trigger as well as the elimination of redemption gates outside of liquidation may reduce the liquidity costs borne by investors remaining in the fund. This aspect of the proposal may increase the attractiveness of money market funds as a low risk cash management tool and sweep investor account to risk averse investors.

b. Costs

As discussed in Section II.A, the proposal would not only remove the tie between fund weekly liquid assets and the possibility of gating and fees, but would also eliminate gate and fee provisions from rule 2a–7. As a result, money market funds would only be able to impose gates in the event of liquidation. To the degree that the ability to impose redemption gates or fees under rule 2a–7 may be a useful redemption management tool during times of stress, the proposed amendment may reduce the scope of tools available to money market funds to manage their liquidity risk in times of stress.

Four factors may mitigate this economic cost of the proposed amendment. First, no money market fund imposed a fee or a gate under the rule during the market stress of 2020, and investors exhibited anticipatory redemptions when funds approached the 30% weekly liquid threshold for the potential imposition of fees and gates. In light of these factors, money market funds may be unlikely to impose redemption gates outside of fund liquidation, even if we retained a redemption gate provision in rule 2a–7. As discussed in Section II.A, the possibility that a money market fund would impose redemption gates may influence investment and redemption decisions, which could trigger runs.

Second, under the proposal, institutional prime and institutional tax-exempt money market funds would be required to impose swing pricing, as discussed in greater detail below. NAV adjustments would not be tied to weekly liquid assets of the fund, but to the size of net redemptions and the liquidity costs redeeming investors are imposing on the shareholders remaining in the fund. The proposed swing pricing approach may be a more valuable tool for money market funds in managing investor redemptions than redemption gates and liquidity fees under rule 2a–7. Moreover, the proposed increases to daily and weekly liquidity thresholds may increase fund liquidity buffers that can be used to manage liquidity costs of redemptions.

Third, money market funds would continue to be able to suspend redemptions under rule 22e–3 in anticipation of fund liquidation. Specifically, money market funds would be able to suspend redemptions if a fund's weekly liquid assets decline below 10% or, in the case of a stable NAV money market fund, if the board determines that the deviation between its amortized cost price per share and its market-based NAV per share may result in material dilution or other unfair results to investors or existing shareholders, in each case if the board also approves liquidation of the fund.[330] Thus, money market funds would still have access to a form of gating during large liquidity shocks in connection with a fund liquidation.

Fourth, as a result of the run dynamics described above, the tie between weekly liquid assets and the potential imposition of fees and gates may have contributed to incentives for money market fund managers to preserve their weekly liquid assets during liquidity stress, rather than using them to meet redemptions. Therefore, the tie between weekly liquid assets and the possibility of fees and gates may magnify liquidity stress because it incentivizes money market funds to sell less liquid assets with higher liquidity costs rather than absorb redemptions out of liquid assets. Thus, the proposed removal of fees and gates under rule 2a–7 may reduce run risk and liquidity externalities in money market funds.

2. Raised Liquidity Requirements

a. Benefits

The proposed amendments increasing daily and weekly liquid asset requirements to 25% and 50% respectively may reduce run risk in money market funds. Early redemptions can deplete a fund's daily or weekly liquid assets, which reduces liquidity of the remainder of the fund's portfolio and increases the risk that a fund may need to sell less liquid assets into the market during fire sales. Thus, higher levels of daily and weekly liquid assets in a fund may reduce trading costs and the first mover advantage during a wave of redemptions, potentially disincentivizing runs. When money market funds experience runs, funds with higher daily and weekly liquid assets may experience lower liquidity costs as they may be more likely to be able to use their liquid assets to meet redemptions rather than be forced to sell assets during liquidity stress.[331] Although liquidity dynamics in open end funds may differ from those in money market funds,[332] some research in that context shows that fund illiquidity can contribute to run dynamics, as discussed in section III.B.2b. Some other work finds that less liquid open-end bond funds suffered more severe outflows during the COVID–19 crisis than liquid funds, and

research, including, for example: Zeng, Yao. 2017. ''A dynamic theory of mutual fund runs and liquidity management.'' Available at SSRN 2907718; Chen, Qi, Itay Goldstein, and Wei Jiang. 2010. ''Payoff complementarities and financial fragility: Evidence from mutual fund outflows.'' Journal of Financial Economics, 97(2): 239–262.

[329] *See, e.g.,* SIFMA AMG Comment Letter; State Street Comment Letter.

[330] *See* 17 CFR 270.22e–3.

[331] *See* Prime MMFs at the Onset of the Pandemic Report, *supra* footnote 41, at 4. According to Form N–MFP filings, no prime money market fund reported daily liquid assets declining below the 10% threshold in March 2020.

[332] For example, unlike open end funds, money market funds are subject to daily and weekly liquid asset requirements.

that less liquid funds experienced redemptions well before more liquid funds.[333] Other research shows that runs were more likely in less liquid funds for both U.S. and European institutional prime money market funds.[334]

The proposed increases to liquidity requirements may reduce the likelihood that funds need to sell portfolio securities during periods of market stress. This may reduce the potential effect of redemptions from money market funds on short-term funding markets during times of stress. Some commenters stated that redemptions from money market funds may not have contributed to stress in short-term debt markets during March 2020 and noted a relation between sales and the introduction of the Money Market Liquidity Facility (MMLF).[335] For example, one industry group conducted a survey of members that indicated the two-thirds of the reduction in prime money market funds' commercial paper holdings ($23 billion) represented sales to the MMLF after that facility was announced on March 18. The commenter suggested that because these sales moved assets from money market funds to the Federal Reserve's balance sheet, these sales would not have placed downward pressure on prices.[336] There may be varying interpretations of the effects of fund outflows in March 2020 on the prices of assets held by money market funds and, thus, the degree to which the proposed liquidity requirements may reduce the transaction costs and losses money market funds would face when selling portfolio securities into stressed markets. Importantly, the proposed liquidity requirements would enhance the ability of funds to meet large redemptions and reduce the dilution of remaining fund shareholders which would protect investors. Some commenters indicated that increases in the weekly liquid asset threshold would not necessarily result in enhanced money market fund liquidity because fund managers would continue to be reluctant to use a fund's liquid assets to fulfill redemptions.[337] Funds may choose between drawing down on daily or weekly liquid assets and selling other assets in distressed markets to meet redemptions. However, the proposed removal of the tie between weekly liquid assets and the potential imposition of redemption fees and gates may reduce the disincentives funds currently face to draw down their weekly liquid assets during a wave of redemptions. Before the 2014 amendments, the only consequence of a money market fund having weekly liquid assets below the 30% threshold was that the fund could not acquire any security other than a weekly liquid asset until its investments were above the 30% threshold. As a result, funds were more comfortable using their weekly liquid assets and dropping below the 30% threshold. For example, at the peak of the Eurozone sovereign crises in the summer of 2011 the lowest reported weekly liquid asset value was approximately 5%.[338] In combination with the proposed elimination of the tie between weekly liquid assets and potential imposition of gates and fees, the proposed liquidity requirements may similarly increase the reliance of money market funds on daily and weekly liquid assets in meeting redemptions. However, the proposal would also require prompt notice of falling below liquidity thresholds, which may decrease these benefits, as discussed in greater detail in Section III.C.6.

These benefits may also be mitigated to the extent that many money market funds may already voluntarily hold daily and weekly liquid assets in excess of the regulatory minimum thresholds.[339] For example, the asset weighted average daily and weekly liquid assets for publicly offered institutional prime money market funds between October 2016 and February 2020 was 33% and 48% respectively.[340] After the peak volatility in March 2020, money market funds generally increased their daily and weekly liquidity, with the asset weighted average daily and weekly liquid assets for publicly offered institutional prime money market funds rising to 44% and 56% respectively between March 2020 and November 2020. Importantly, the distribution of liquid assets is skewed, with approximately 50% of publicly offered institutional prime funds holding below average (44%) in daily liquid assets and 75% of funds holding below average (less than 56%) in weekly liquid assets. As a result, fewer prime funds may benefit from the proposed higher daily liquid asset threshold than the proposed higher weekly liquid asset threshold.

Reduced run risk in money market funds may enhance the resilience of affected funds and reduce the risk that money market funds may rely on government backstops. Moreover, this amendment may benefit investors to the degree that increasing the liquidity of money market fund portfolios would allow funds to meet large redemptions from liquidity buffers more easily. For example, after the March 2020 market dislocation, some prime money market funds voluntarily shifted their portfolios by swapping out longer maturity commercial paper and certificates of deposit for more liquid Treasuries, allowing them to meet any future redemptions better. Raising liquidity thresholds may have a similar benefit.

The magnitude of these economic benefits is likely to depend on the way in which money market funds may respond to the proposed amendments. Specifically, some affected money market funds (*i.e.,* money market funds with less than the proposed 25% in daily and 50% in weekly liquid assets) may react to the proposal by increasing the maturity of the remainder of their portfolios, potentially reducing their liquidity to the extent that it is tied to maturity. However, under the current rules money market funds are constrained in the maturity and weighted average life of the assets they hold, which is intended to limit the degree to which funds are able to risk shift their portfolios while remaining registered as money market funds. Moreover, the liquidity stress in 2020 was so severe that commercial paper across a variety of maturities became illiquid.

b. Costs

The proposed amendments would impose indirect costs on money market funds, investors, and issuers. Because less liquid assets are more likely to yield higher returns in the form of a liquidity premium,[341] to the degree that the

[333] *See* Falato, Antonio, Itay Goldstein and Ali Hortaçsu. 2021. ''Financial Fragility in the COVID–19 Crisis: The Case of Investment Funds in Corporate Bond Markets.'' Journal of Monetary Economics, forthcoming.

[334] *See* Cipriani, Marco and Gabriele La Spada. 2020. ''Sophisticated and Unsophisticated Runs.'' FRB of New York Staff Report No. 956. *See also* Anadu, Kenechukwu, Marco Cipriani, Ryan Craver, and Gabriele La Spada. 2021. ''The Money Market Mutual Fund Liquidity Facility.'' FRM of New York Staff Report No. 980.

[335] *See, e.g.,* ICI Comment Letter I; ICI Comment Letter II; Federated Hermes Comment Letter I; SIFMA AMG Comment Letter.

[336] *See, e.g.,* ICI Comment Letter I; ICI Comment Letter II.

[337] *See, e.g.,* Wells Fargo Comment Letter; JP Morgan Comment Letter.

[338] *See, supra* footnote 274, Figure 8.

[339] Wells Fargo Comment Letter; JP Morgan Comment Letter; Western Asset Comment Letter (noting that reporting and transparency requirements encourage managers to maintain liquid assets in excess of the existing WLA threshold).

[340] Averages were calculated by dividing the aggregate amount of daily (weekly) liquid assets from all funds by the aggregated amount of assets from all fund.

[341] *See, e.g.,* Lee, Kuan-Hui. 2011. ''The World Price of Liquidity Risk.'' Journal of Financial Economics 99(1): 136–161. *See also* Acharya, Viral, and Lasse Pedersen. 2005. ''Asset Pricing with

proposal improves the liquidity of money market fund portfolios, it would lower expected returns of those funds to investors that are already earning low and or zero net yields in a low interest rate environment. Several commenters have indicated that an increase in weekly liquid assets would likely decrease money market fund yields and make them less desirable to investors.[342] This may reduce the attractiveness of money market funds to some investors. Reduced investor demand may lead to a decrease in the size of assets under management of affected money market funds and the wholesale funding liquidity they provide to other market participants. Investors that prefer to use money market funds as a cash management tool, giving them the ability to preserve the value of their investments and receiving a small yield, may move out of prime money market funds and into government money market funds that deliver lower yields, but have lower risk to the value of the investment. Moreover, to the degree that some money market funds are only viable because investors treat them as cash equivalents, this amendment may result in better matching of investors to funds that meet their risk tolerance and yield expectations, mitigating the above costs.

The proposed increase of daily and weekly liquid assets may require as many as 15% of affected funds to increase their daily liquid assets and 50% of affected funds to increase their weekly liquid assets, as discussed in further detail below.[343] The proposal would thus increase the demand of money market funds for daily liquid assets, such as repos, and the liquidity in overnight funding markets may then flow through banking entities to leveraged market participants, such as hedge funds. Thus, the proposal may reduce the liquidity risk borne by money market funds, but may result in a concentration of risk taking among leveraged and less regulated market participants. At the same time, this shift could allocate risk that currently resides in money market funds to hedge funds and other more speculative vehicles.

The proposed amendments may also impose indirect costs on issuers. Specifically, money market funds are significant holders of commercial paper and certificates of deposit, as described in the economic baseline,[344] and most of the commercial paper they hold is issued by banks, including foreign bank organizations.[345] Therefore, issuers of commercial paper and certificates of deposit are likely to experience incrementally reduced demand for their securities from money market funds, particularly demand for debt that would fall outside of the weekly liquid assets category. This may reduce such issuers' access to capital and increase the cost of capital, negatively affecting capital formation in commercial paper and certificates of deposit. Issuers may respond to such changes by reducing their issuance of commercial paper and certificates of deposit and increasing issuance of longer-term debt. In a somewhat analogous setting, some research explores the effects of the 2014 money market fund reforms, which resulted in asset outflows from prime money market funds into government money market funds and affected funding for large foreign banking organizations in the U.S., on bank business models.[346] One paper finds that banks were able to replace some of the lost funding, but reduced arbitrage positions that relied on unsecured funding, rather than reducing lending.[347] Another paper finds that money market fund reforms led to an increase in the relative share of lending in bank assets and concludes that reduction in unstable funding can discourage bank investments in illiquid assets.[348] Other research examined the effects of decreased holdings of European bank debt by money market funds during the Eurozone sovereign crisis in 2011. One paper found that reduced wholesale dollar funding from money market funds during this period led to a sharp reduction in dollar lending by Eurozone banks relative to euro lending, which reduced the borrowing ability of firms reliant on Eurozone banks prior to the sovereign debt crisis.[349]

These potential costs of the proposed amendment to issuers may be mitigated by four potential factors. First, as discussed above, money market funds may respond to a higher weekly liquid asset threshold by increasing the maturity and liquidity risk in their non-weekly liquid asset portfolio allocations. This effect may dampen the adverse demand shock for commercial paper, but increase portfolio risk of affected money market funds. However, as discussed in Section II.C. above, for the past several years prime money market funds have maintained levels of liquidity that are close to or that exceed the proposed thresholds, without generally barbelling.[350] Second, as discussed in Section III.B.3.a), money market funds hold less than a quarter of outstanding commercial paper, which could limit the impact of the proposal on commercial paper issuers and markets. Third, the proposed increases to liquidity requirements may increase some money market fund's liquidity buffers, which may enable such funds to meet large redemptions from liquid assets and reduce the need to sell commercial paper to meet large redemptions during fire sales. This may enhance the stability of commercial paper markets during times of market stress—an effect that is also limited by the relative size of money market fund holdings of commercial paper. Fourth, money market funds are just one group of investors investing in commercial paper markets and hold less than a quarter of commercial paper outstanding, as discussed above. If money market funds pull back from commercial paper markets and commercial paper prices decrease as a result, other investors, such as mutual funds or insurance companies, may be attracted to commercial paper, absorbing some of the newly available supply, as observed after the 2016 reforms.

Liquidity Risk.'' Journal of Financial Economics, 77(2): 375–410. *See also* Pastor, Lubos, and Robert Stambaugh. 2003. ''Liquidity Risk and Expected Stock Returns.'' Journal of Political Economy 111(3): 642–685.

[342] SIFMA AMG Comment Letter; Western Asset Comment Letter; Wells Fargo Comment Letter; JP Morgan Comment Letter.

[343] The analysis is based on March 2020 redemptions from publicly offered institutional prime funds. The possible new thresholds determined by stress in publicly offered institutional prime fund portfolios are then applied to all money market funds (except for the daily liquid asset threshold for tax-free money market funds). As such, these figures also reflect the percentage of retail and institutional prime funds that would be impacted by the various liquidity thresholds. Important caveats and limitations of this analysis are discussed in Section III.D.2.a below.

[344] To the degree that some money market funds hold significant quantities of commercial paper issued by foreign banks seeking dollar funding, such issuer costs may have a greater effect foreign issuers.

[345] *See* ICI MMF Report, *supra* footnote 45.

[346] These outflows around the October 2016 compliance date for the 2014 reforms, for example, led to reduced money market funds purchases of commercial paper with other entities like mutual funds eventually picking up the shortfall and an approximately 30 basis point spike in 90-day financial commercial paper rates for about three months.

[347] *See, e.g.,* Anderson, Alyssa, Wenxin Du, Bernd Schlusche. 2019. ''Money Market Fund Reform and Arbitrage Capital.'' Working Paper.

[348] *See* Thomas Flanagan. 2020. ''Funding Stability and Bank Liquidity.'' Working Paper.

[349] *See* Ivashina, Victoria, David Scharfstein, and Jeremy Stein, 2015. ''Dollar Funding and the Lending Behavior of Global Banks.'' Quarterly Journal of Economics 130(3): 1241–1281.

[350] *See* BlackRock Comment Letter (stating that they have not seen evidence that barbelling was a problem in March 2020, or that money market fund portfolios were generally structured with a barbell). We similarly have not observed significant use of barbelling strategies among money market funds.

3. Stress Testing Requirements

a. Benefits

The proposal would also alter stress testing requirements for money market funds. Under the baseline, money market funds are required to stress test their ability to maintain 10% weekly liquid assets under the specified hypothetical events described in rule 2a–7 since breach of the 10% weekly liquid asset threshold would impose a default liquidity fee. The proposal would eliminate the default liquidity fee triggered by the 10% threshold and the corresponding stress testing requirement around the 10% weekly liquid asset threshold. Instead, the proposal would require funds to determine the minimum level of liquidity they seek to maintain during stress periods and to test whether they are able to maintain sufficient minimum liquidity under such specified hypothetical events, among other requirements.

Money market funds may have different optimum levels of liquidity under times of stress. Many factors influence optimum levels of minimum liquidity, including the type of money market fund, investor concentration, investor composition, and historical distribution of redemption activity under stress. This aspect of the proposal may increase the value of stress testing as part of fund liquidity management by allowing funds to tailor their stress testing to the fund's relevant factors, which may enhance the ability of funds to meet redemptions and the Commission's oversight of money market funds.

b. Costs

Proposed amendments to fund stress testing requirements may impose direct and indirect costs. Specifically, a fund would be required to determine the minimum level of liquidity it seeks to maintain during stress periods, identify that liquidity level in its written stress testing procedures, periodically test its ability to maintain such liquidity level, and provide the fund's board with a report on the results of the testing. As a baseline matter, funds are expected already to identify minimum levels of liquidity they seek to maintain during stress as part of routine liquidity management, and are required to test their ability to maintain such liquidity levels under the baseline liquidity thresholds. Money market funds have also established written stress testing procedures to comply with existing stress testing requirements and report the results of the testing to the board. Thus, such funds may experience costs related to altering existing stress testing procedures as the proposal would move from bright line requirements to a principles based approach, as well as costs related to board reporting and recordkeeping.

Moreover, to the degree that funds may not always have sufficient incentives to manage liquidity to meet redemptions, they may choose insufficiently low minimum levels of liquidity for stress testing, which may reduce the value of stress testing and corresponding reporting for board oversight of fund liquidity risk. However, funds may have significant reputational incentives to manage liquidity costs—incentives that have, for example, led many funds to voluntarily provide sponsor support.

4. Swing Pricing

a. Benefits and Costs of Swing Pricing in Money Market Funds in General

As discussed in the economic baseline, money market fund investors transacting their shares typically do not incur the costs associated with their transaction activity. Instead, these liquidity costs may be borne by shareholders remaining in the fund, which may contribute to a first-mover advantage and run risk.[351] Moreover, as discussed above, liquidity management by money market funds imposes externalities on all participants investing in the same asset classes. This effect may be especially acute if there are large-scale net redemptions during times of market stress.

The proposed amendments implementing swing pricing would require institutional prime and institutional tax-exempt money market funds to implement swing pricing procedures to adjust the fund's floating NAV so as to charge redeeming shareholders for the liquidity costs they impose on the fund when a fund experiences net redemptions. The adjusted NAV would apply to redeemers and subscribers alike. Thus, adjusting the NAV down when a fund is faced with net redemptions charges redeemers for the liquidity costs of their redemptions, but also allows subscribers to buy into the fund at the lower, adjusted NAV.[352] Under the proposal, the affected money market fund would recoup the full dilution costs by charging the redeemers for both the dilution cost of redemptions as well as the cost of allowing subscribers to buy into the fund at the lower adjusted NAV.

As discussed in greater detail in the section that follows, the proposed swing pricing requirement would require funds to estimate swing factors differently depending on the level of redemptions. If net redemptions in a particular pricing period are at or below the market impact threshold (of 4% divided by the number of pricing periods per day), swing factors would be required to incorporate spread and other transaction costs. If net redemptions exceed the market impact threshold, swing factors would be required to reflect spread and other transaction costs, as well as a good faith estimate of market impact of net redemptions. Thus, the magnitude of the adjustments to the NAV during normal market conditions may be small since money market funds already hold relatively high quality and liquid investments and would hold even higher levels of liquidity under the proposal, which may reduce liquidity costs when meeting redemptions.

One commenter indicated that because NAV adjustments may be small and investors are unable to observe at the time of placing their orders whether the fund will adjust its NAV, swing pricing may not have the intended impacts of swing pricing on investor behavior.[353] The proposed swing pricing requirement may increase the variability of institutional funds' NAV, which can reduce their attractiveness to investors. However, under the baseline, institutional funds experience NAV volatility, as demonstrated in Section III.B, and risk averse investors that prefer NAV stability may have already shifted to government money market funds or bank accounts around the 2016 implementation of money market fund reforms. Moreover, even if investors cannot observe whether the NAV will be adjusted on a particular day, if swing pricing accurately reflects liquidity costs, investors know that they would not be diluted if they stay in the fund, reducing their incentives to exit in anticipation of the application of a swing factor. Moreover, the rule is intended to address the dilution that can occur when a money market fund experiences net redemptions and is not intended to result in significant NAV

[351] As discussed in the economic baseline, dilution costs most directly impact shareholders in floating NAV funds through changes to the NAV. In stable NAV funds, dilution costs can make the fund more likely to breach the $1 share price if dilution costs are large. It is also important to note that sponsors can choose to provide sponsor support to manage reputational costs.

[352] Adjusting the NAV captures the liquidity costs that redeemers impose on the shareholders remaining in the fund. However, subscribers benefit from the lower NAV as well since subscribers buy into the fund at a lower NAV. Thus, the benefits of adjusting the NAV are shared between existing shareholders in the fund and subscribers.

[353] *See* Fidelity Comment Letter.

adjustments unless there is significant net redemption activity leading to large liquidity costs.

The proposed swing pricing requirement may reduce dilution of non-redeeming shareholders in the face of net redemptions. Thus, swing pricing may reduce any first mover advantage, fund outflows, and any dilution resulting from these outflows.[354] In other jurisdictions swing pricing is used as a mechanism to protect non-transacting shareholders from dilution attributable to trading costs, and as an additional tool to help funds manage liquidity risks.[355] To the degree that swing pricing reduces dilution, swing pricing may serve to protect investors that remain in a fund, for instance, during periods of high net redemptions. In addition, the proposed elimination of the ability to impose liquidity fees and gates under rule 2a–7 may increase the benefit of swing pricing as an important tool for money market funds to manage the liquidity costs of large-scale redemptions.

The above economic benefits of swing pricing may be reduced by several factors. First, several commenters have suggested that swing pricing adjustments would have been too small to affect investor redemptions and may not have addressed the issues that occurred in March 2020.[356] The implementation of swing pricing in the proposal appears to differ from that in these comment letters in that when net redemptions exceed the market impact threshold, swing factors would be required to reflect estimates of market impacts assuming redemptions are met through the liquidation of a pro-rata share of total portfolio assets. Thus, when net redemptions are large, swing factors may be larger than estimated in these comment letters and may capture more of the dilution costs currently borne by nontransacting shareholders.

Second, the proposed swing pricing requirement only addresses the portion of dilution costs related to trading costs, and would not address other sources of dilution discussed in section III.B.2. Thus, the proposed requirement may only partly reduce the dilution costs that redemptions impose on non-transacting investors and the related liquidity externalities. We do not have granular data about daily money market fund holdings that would enable us to estimate the amount of dilution that could have been recaptured under the proposed approach in March 2020 or the prevalence of other sources of dilution discussed in Section III.B.2. To the best of our knowledge, such data is not publicly available, and we solicit any comment or data that could enable such quantification.

Third, as discussed in greater detail in Section II, the proposed swing pricing approach would require affected funds to calculate swing factors based on, among other things, estimates of market impacts. To the degree that it may be difficult to value illiquid assets without an active secondary market, particularly in times of severe liquidity stress, funds may need to use their discretion in the estimation of market impact factors. This may give affected funds some discretion in the calculation of swing factors. To the extent that institutional investors may be sensitive to NAV adjustments under the proposal, some funds may use discretion in the calculation of swing factors to reduce the NAV adjustments. At the same time, funds may use discretion to apply larger NAV adjustments so as to manipulate and presumably improve reported fund performance. Importantly, the proposed rule would require affected funds to use good faith estimates of market impact factors. Moreover, discretion in the calculation of swing factors may increase noise in the NAV and may decrease comparability in returns. Investors may find it more difficult to interpret returns if swing pricing is applied inconsistently across funds.

The proposal would require affected funds to implement swing pricing, rather than make it optional. While money market funds may have reputational incentives to manage liquidity to meet redemptions, affected funds also face collective action problems and disincentives stemming from investor behavior. Specifically, to the degree that institutional investors may use institutional prime and institutional tax-exempt funds for cash management and their flows are sensitive to NAV adjustments, funds may be disincentivized to implement swing pricing and/or to adjust the NAV frequently. For example, even if all institutional money market funds recognized the benefits of charging redeeming investors for the liquidity costs of redemptions, no fund may be incentivized to be the first to adopt such an approach as a result of the collective action problem. By making swing pricing mandatory, rather than optional, the proposal is intended to ensure that funds adjust the NAV to capture the dilution costs of net redemptions and that money market fund returns are comparable across funds. Moreover, it may be suboptimal for an individual money market fund to implement swing pricing routinely, as the operational costs of doing so are immediate and certain, while the benefits are largest in relatively rare times of liquidity stress. The proposed application of swing pricing by all institutional prime and institutional tax-exempt funds is intended to ensure that swing pricing is deployed in times of severe stress by all affected funds, protecting investors from dilution costs when they are highest, and reducing liquidity externalities that money market funds may impose on other market participants trading the same asset classes.

The proposed swing pricing requirement would impose certain costs, as analyzed in Section IV. These costs may be passed along in part or in full to institutional money market fund investors, that are already earning low and or zero net yields in a low interest rate environment, in the form of higher expense ratios or fees. In addition, the proposal would require affected funds to calculate the swing factor based on net, rather than gross redemptions. As a result, the redeeming investors would be charged both for the direct liquidity costs of their redemptions, as well as for the dilution cost that results from allowing subscribers to buy into the fund at a lower adjusted NAV. While this would result in the non-transacting shareholders recapturing more of the dilution costs from redemptions, this aspect of the proposal would charge redeeming investors for more than the direct dilution cost of their redemptions, which may disincentivize redemptions and incentivize subscriptions.

The proposal may reduce investor demand for institutional prime and institutional tax-exempt money market funds. If the proposal reduces investor demand in some funds, it would lead to a decrease in assets under management of these money market funds, thereby potentially reducing the wholesale funding liquidity they provide to other

[354] *See, e.g.,* Jin, Dunhong, Marcin Kacperczyk, Buge Kahraman, and Felix Suntheim. 2021. ''Swing Pricing and Fragility in Open-end Mutual Funds.'' Review of Financial Studies, forthcoming.

[355] However, swing pricing in these other jurisdictions differs somewhat from our proposed approach. For example, swing pricing often involves adjusting a fund's NAV in the event of net redemptions or net subscriptions. *Recommendation of the European Systemic Risk Board (ESRB) on liquidity risk in investment funds,* European Securities and Markets Authority (November 2020); *Liquidity Management in UK Open-Ended Funds,* Bank of England and the Financial Conduct Authority (March 26, 2021); and Jin, et al., Swing Pricing and Fragility in Open-end Mutual Funds (January 1, 2021) The Review of Financial Studies, forthcoming, *available at* SSRN: *https://ssrn.com/abstract=3280890* or *http://dx.doi.org/10.2139/ssrn.3280890.*

[356] *See, e.g.,* Fidelity Comment Letter; Western Asset Comment Letter; GARP Risk Institute Comment Letter.

market participants. The implementation of the floating NAV for institutional money market funds in 2016 resulted in a large scale reallocation of investor capital into stable NAV money market funds, as discussed in Section II.A. Thus, investor demand for institutional money market funds may depend on the low variability of their NAVs. The proposed swing pricing requirement would increase the volatility of affected money market fund NAVs, particularly in times of market stress. Some commenters also suggested that swing pricing would reduce investor interest in money market funds.[357] A reduction in the number of money market funds and/or the amount of money market fund assets under management as a result of any further money market fund reforms would have a greater negative impact on money market fund sponsors whose fund groups consist primarily of money market funds, as opposed to sponsors that offer a more diversified range of mutual funds or engage in other financial activities (*e.g.,* brokerage).

These economic costs may be mitigated by three factors. First, the proposed swing pricing requirement is tailored to the level of net redemptions. When net redemptions are low (at or below the market impact factor threshold) and under normal market conditions, the proposed swing pricing requirement is economically equivalent to requiring funds strike the NAV at bid prices of securities (since other transaction costs may also be low under normal conditions). As discussed in the economic baseline, some fund complexes may already be striking NAV at bid prices.

Second, money market funds hold assets that are more liquid and less risky when compared to other open-end funds. Under normal market conditions, funds may be able to apply a small swing factor that only affects the fund's NAV to the fourth decimal place. Affected money market funds' NAV adjustments would likely be greater during severe stress, when redeemers impose significant costs on the remaining fund investors.

Third, the proposed swing pricing requirement would require redeeming investors to internalize the costs that their trading imposes on the investors remaining in the fund, reducing the liquidity externalities currently present in institutional prime and institutional tax exempt money market funds. Moreover, to the degree that some institutional investors may not be aware of the dilution risk of affected money market funds, the proposed swing pricing requirement may increase investor awareness of such risks. Importantly, the proposed swing pricing requirement may enhance allocative efficiency. As discussed above, the swing pricing requirement could cause some investors to move their assets to government money market funds to avoid the possibility of paying liquidity costs of redemptions. Government money market funds may be a better match for these investors' preferences, however, in that government money market funds face lower liquidity costs and these investors may be unwilling to bear any liquidity costs.

The proposed swing pricing requirement may impose costs on investors redeeming shares in response to poor fund management or a fund complex's emerging reputational risk. Under the proposal, all net redemptions out of affected funds, regardless of the cause for the redemption, would result in the NAV being adjusted by the swing factor. While this may impose costs on efficiency—as redemptions out of poorly managed funds are efficient and an important part of market discipline of fund managers—this aspect of the proposal would also capture the liquidity costs that such redemptions impose on affected funds.

Two factors may reduce the magnitude of these effects on the incentives of fund managers. First, money market funds are subject to requirements of rule 2a–7 and the proposal would increase minimum daily and weekly liquid asset requirements applicable to money market funds thereby further restricting fund managers from investing in illiquid assets. Second, the proposal would require disclosures regarding historical swing factors, which may make liquidity costs of redemptions more transparent to investors and lead to affected funds competing on swing factors they charge investors. In addition, the proposed swing pricing requirement may pose a number of implementation challenges and impose related costs on money market funds, third party intermediaries, and investors.[358] First, swing pricing would require affected money market funds to estimate both direct and indirect trading costs on a daily or more frequent basis, which may be particularly time consuming and challenging during times of stress. Liquidity costs are not normally charged separately to money market funds, but are expressed in less favorable prices or the inability to sell assets under stress. Moreover, money market fund holdings of many assets, such as municipal securities, certificates of deposit and commercial paper, are not exchange traded and many such assets do not have an active secondary market. As a result, estimating transaction costs and market impact factors of each component of a money market fund portfolio may be time consuming and difficult, especially during a liquidity freeze. Moreover, to the degree that some affected funds may engage in interfund borrowing to meet redemptions, such costs would not be captured by the proposed approach.

Second, the implementation of swing pricing would require affected money market funds to receive timely information about order flows. Some commenters indicated that swing pricing in money market funds is currently impractical because some intermediaries may report flows with a delay.[359] However, as discussed in section III.B.1.a above, many affected money market funds impose order cut-off times that ensure that they receive orders prior to striking their NAV. Therefore, many affected money market funds may already have the necessary information to determine when the fund has net redemptions and a swing factor needs to be applied. Affected money market funds that do not already have cut-off times may introduce cut-off times for order submissions by intermediaries, such as broker-dealers, retirement fund administrators, investment advisers, transfer agents, and banks, bearing related costs. Such funds may face additional operational complexity and costs to implement a cut-off time or otherwise gather the necessary information to determine whether it has net redemptions for each pricing period.

Third, the proposed swing pricing requirement is likely to reduce the feasibility and increase the costs of same day settlement and the ability of affected funds to offer multiple NAV strikes per day.[360] Specifically, affected money market funds may not have enough time to accurately estimate flows, make pricing decisions, and strike the NAV while meeting their existing settlement timeframes. This

[357] *See, e.g.,* BlackRock Comment Letter; GARP Risk Institute Comment Letter; mCD IP Comment Letter.

[358] *See, e.g.,* SIFMA AMG Comment Letter; JP Morgan Comment Letter; GARP Risk Institute Comment Letter.

[359] *See, e.g.,* ICI Comment Letter I; PIMCO Comment Letter; Fidelity Comment Letter; Federated Hermes Comment Letter I.

[360] *See, e.g.,* ICI Comment Letter I; SIFMA AMG Comment Letter; Western Asset Comment Letter; Federated Hermes Comment Letter I; JP Morgan Comment Letter; Institute of International Finance Comment Letter; CCMR Comment Letter.

may cause affected funds to reduce the number of NAV strikes per day or move the last NAV strike to an earlier time, which could reduce the attractiveness of affected money market funds for liquidity-seeking investors. Some research finds that funds offering multiple intraday NAVs and redemptions experienced significantly larger outflows during times of stress when compared with single-strike funds.[361] While this research does not distinguish between causal impacts of multiple NAV strikes a day on run risk and selection effects (with more liquidity seeking investors being attracted to multiple-strike funds), it suggests that multiple-strike funds were more prone to large investor redemptions in March 2020. Thus, the proposed swing pricing requirement for multiple NAV strikes per day funds may represent a tradeoff between potential adverse effects on the ability of some affected funds to offer intraday redemptions and slower settlement on the one hand, and potential reductions in run risk in money market funds on the other.

Fourth, the proposed swing pricing requirement may increase costs of tax reporting. Specifically, the swing pricing requirement may increase tax reporting burdens for investors if the requirement prevents an investor from using the NAV method of accounting for gain or loss on shares in a floating NAV money market fund or affects the availability of the exemption from the wash sale rules for redemptions of shares in these funds.

b. Benefits and Costs of Specific Aspects of the Proposed Implementation of Swing Pricing

The proposed implementation of swing pricing to institutional prime and tax-exempt funds is characterized by four features. First, the swing factor must reflect spread and transaction costs, as applicable. Second, if the institutional fund has net redemptions exceeding 4% divided by the number of pricing periods per day, the swing factor would also require the inclusion of estimated market impacts that net redemption would have on the value of the fund portfolio. Swing pricing administrators would have flexibility to include market impacts in the swing factor if net redemptions are at or below the market impact threshold. Third, the proposal would require funds to calculate the swing factor under the assumption that the fund would sell all assets in the fund portfolio proportionally to the amount of net flows to meet net redemptions (the so-called vertical slice of the fund portfolio), rather than absorb redemptions out of liquid assets (the so-called horizontal slice of the fund portfolio). Fourth, the NAV adjustment would only occur when affected funds have net redemptions and not when they have net subscriptions. These features of the proposed swing pricing requirement aim to more fully and in a more tailored manner address the liquidity externalities that redeemers impose on investors remaining in the fund and are expected to result in reductions in the first mover advantage and run risk in institutional money market funds.

i. Benefits

Under the proposal, when net redemptions are at or below the market impact threshold of 4% divided by the number of pricing periods per day, the swing factor would be determined based on the spread costs and other transaction costs (*i.e.,* brokerage commissions, custody fees, and any other charges, fees, and taxes associated with portfolio security sales). As discussed above, such direct transaction costs contribute to dilution of shareholders remaining in the fund and this aspect of the proposal may reduce dilution costs of non-transacting investors. Notably, adjusting the NAV by the spread costs of redemptions is economically equivalent to striking the NAV at the bid price and, as discussed above, some money market funds may already do so in the regular course of business. As a result, the swing pricing requirement for funds when net redemptions are at or below the market impact threshold would primarily affect institutional funds that use mid-market pricing to compute their current NAVs. In addition, when net redemptions are at or below the market impact threshold, the proposal would require the NAV adjustment to reflect other transaction costs, which currently contribute to dilution of non-transacting shareholders. Based on an analysis of historical daily redemptions out of institutional prime and institutional tax-exempt money market funds between December 2016 and October 2021 and discussed in greater detail in Section III.D.4, approximately 5% of trading days[362] may involve such net redemptions. Approximately 3 out of the 53 (5%) institutional funds as of October 2021 would have outflows exceeding this threshold on an average trading day. As can be seen from that analysis, net flows on most days are low, so funds rarely experience large net redemptions that have significant market impact that would dilute investors.[363]

Under the proposal, if net redemptions exceed the market impact threshold of 4% divided by the number of pricing periods per day, the swing factor would be required to include not only the spread costs and other transaction costs, but also good faith estimates of the market impact of net redemptions. To the extent funds are able to estimate/forecast market impact costs accurately, the proposed requirement to assess the market impact of redemptions when net redemptions exceed the market impact threshold would result in redeeming investors bearing not only the direct spread and transaction costs from their redemptions, but also the impact of their redemptions on the market value of the fund's holdings. This may allow shareholders remaining in the fund to capture more of the dilution cost of redemptions, which includes not only direct transaction costs and near-term price movements, but the impact of the redemptions on the fund's portfolio as a whole. However, the magnitude of this benefit may be reduced by the fact that the proposal would only require market impact factor adjustments if redemptions exceed the market impact threshold. Based on an analysis of historical daily redemptions, approximately 5% of trading days may involve such net redemptions.[364]

Importantly, the proposed implementation of swing pricing would require funds to calculate the swing factor as if the fund were selling the pro-rata share of all of the fund's holdings, rather than, for example, assuming the fund would absorb redemptions out of daily liquid assets. If a fund were to absorb large redemptions out of daily or weekly liquid assets, the immediate transaction costs imposed on the funds would be lower. However, the fund would have less remaining daily and weekly liquidity and transacting shareholders would be diluting remaining investors in a manner not captured by estimated transaction costs.

[361] *See, e.g.,* Casavecchia, Lorenzo, Georgina Ge, Wei Li, and Ashish Tiwari. 2021. ''Prime Time for Prime Funds: Floating NAV, Intraday Redemptions and Liquidity Risk During Crises.'' Working paper.

[362] This analysis is based on historical daily redemptions. Since multiple NAV-strike a day funds would apply the threshold multiple times a day under the proposal, this analysis may under- or over-estimate how frequently a threshold may be applied.

[363] The threshold is based on historical data demonstrating that the 4% threshold approximately corresponds to the 5th percentile of daily fund flows.

[364] *Id.*

Thus, this aspect of the proposal would make redeeming investors bear not just the immediate costs of covering redemptions, but also the costs of rebalancing the fund portfolio to the pre-redemption levels of liquid asset holdings.

Finally, the proposal would apply swing pricing to net redemptions, rather than both net redemptions and net subscriptions. Redemptions, not subscriptions, pose the greatest run risk. This aspect of the proposal may reduce the operational costs of implementing swing pricing by eliminating the need for funds to perform the swing factor analysis when they are faced with net subscriptions.

ii. Costs

The proposed implementation of swing pricing may give rise to burdens on money market funds. As described in the economic baseline, money market fund holdings exhibit little price volatility outside of times of severe stress, such as during the 2008 financial crisis and March 2020 volatility. The proposal would require funds to apply swing pricing during pricing periods with net redemptions, which would impose operational burdens on money market funds. However, these burdens may be mitigated by the fact that the funds scoped into this proposed requirement already have to perform an analysis to float the NAV [365] and the fact that some affected money market funds may already be using bid prices to strike the NAV.

In addition, the proposed approach would require redeeming shareholders to bear liquidity costs larger than the direct liquidity costs they may impose on the fund. Specifically, the proposal would require institutional funds to calculate the swing factor assuming the fund would absorb flows by trading the pro-rata share of all of the fund's holdings, rather than specific asset types. Given the nature of money market fund holdings (as described in the economic baseline), money market funds typically absorb redemptions out of daily and weekly liquid assets. Moreover, their ability to do so may be increased by the proposed amendments to raise the daily and weekly liquid asset requirements. At the same time, assets other than daily and weekly liquid assets—such as municipal securities and commercial paper that do not mature in the near term—may become illiquid in times of stress and may need to be held to maturity by the fund. Thus, the realized transaction costs of most redemptions may be zero as funds absorb them out of daily liquidity, while the true liquidity costs of redemptions may consist of the depletion of daily and weekly liquidity during times of stress (when rebalancing is especially expensive) rather than the sale of illiquid assets. This aspect of the proposal, therefore, could impose a large cost on redeemers that does not represent the actual cost realized from their trading activity, which may reduce the attractiveness of affected money market funds to investors. Notably, liquidity costs paid by redeemers under the proposed swing pricing requirement would flow back to remaining shareholders, disincentivizing redemptions and reducing the first mover advantage during times of stress.

Moreover, market impact factors (which are estimates of the percent change in the price of an asset per dollar sold) and spread costs may be difficult to estimate precisely, especially in times of stress and when many of the assets money market funds hold lack a liquid secondary market. These difficulties may be attenuated to the degree that funds may be calculating market impact factors to assess trading costs and determine optimal trading strategies; however ex ante estimates of transaction costs and market impact factors may be more difficult than ex post assessment of trading costs and market impacts. This aspect of the proposal may lead money market funds to disinvest from some securities and asset classes with less trade and quotation data for an accurate estimate of market impact factors. While this may decrease liquidity risk in institutional funds, this may also reduce the amount of maturity and liquidity transformation they perform. Moreover, to the degree that funds' estimation of market impacts and spread costs may be imprecise, funds may charge redeeming investors an inaccurate fee that under- or over-estimates the actual liquidity costs funds incurred by funds after redemptions. The proposal seeks to reduce such costs by requiring the calculation of market impact factors in swing pricing only when net redemptions exceed 4% divided by the number of pricing periods per day.

5. Amendments Related to Potential Negative Interest Rates

As a baseline matter, negative interest rates have not occurred in the United States and money market funds are not currently implementing reverse distribution mechanisms. Moreover, government and retail money market funds and their transfer agents are already required to be able to process transactions at a floating NAV. Thus, the proposal would restrict how money market funds may react to possible future market conditions resulting in negative fund yields and would effectively expand existing requirements related to processing orders under floating NAV conditions to all intermediaries. Government and retail money market funds would also be required to keep records identifying intermediaries able to process orders at a floating NAV.

The proposal is intended to create transparency for investors in stable NAV funds in the event of negative yields. As discussed in Section III.D., the reverse distribution mechanism, if implemented by some funds, may mislead investors about the value of their investments. Requiring stable NAV funds to implement a floating NAV in a negative yield environment may better inform investors about the performance of their investment than allowing such funds to preserve a stable NAV, but decrease the number of investor shares.[366] Moreover, the proposed amendments related to fund intermediaries may facilitate a transition of stable NAV funds to floating NAV in a negative yield environment. Notably, these benefits would only be realized in persistently negative yield environments.

The proposed amendments may impose significant operational burdens and costs on investors. For example, requiring retail funds to switch from a stable NAV to a floating NAV may create accounting and tax complexities for some retail investors.[367] In addition, a floating NAV requirement may be incompatible with popular cash management tools such as check-writing and wire transfers that are currently offered for many stable NAV money market fund accounts.[368]

The proposed requirement that government and retail money market funds determine that their intermediaries have the capacity to process the transactions at floating NAV and the related recordkeeping requirements would impose burdens on these funds, as estimated in Section IV. For example, affected money market funds may have to review their contracts with intermediaries, and some contracts may need to be renegotiated. Funds would have flexibility in how they make this determination for each financial intermediary, which may

[365] *See* 17 CFR 270.2a–7(c)(1)(ii); 17 CFR 270.2a–4.

[366] Jose Joseph Comment Letter.

[367] *See, e.g.,* ICI Comment Letter I; Federated Hermes Comment Letter I; Madison Grady Comment Letter; Comment Letter of Carter Ledyard Milburn (Apr. 15, 2021).

[368] *See, e.g.,* ICI Comment Letter I; Madison Grady Comment Letter.

reduce these costs for some funds. Moreover, intermediaries that are currently unable to process transactions in stable NAV funds at a floating NAV may need to upgrade their processing systems to be able to continue to transact in government and retail funds. If some intermediaries are unable or unwilling to do so, the proposed requirement may adversely impact the size of intermediary distribution networks of some funds, which can limit access or increase the costs of investor access to some affected funds. However, there may be economies of scope in intermediating orders for both stable NAV and floating NAV funds, especially since some investors may allocate assets in both stable NAV and floating NAV funds. To the extent that many of the same intermediaries may process orders for floating and stable NAV money market funds, such intermediaries may already have processing systems adequate capable of processing transactions in stable NAV funds at a floating NAV should such a transition occur. Nevertheless, the use of stable NAV money market funds as sweep vehicles may present operational difficulties for intermediaries, and the burdens of the rule may increase the costs of and reduce the reliance on stable NAV funds for sweep accounting.

As with other costs of the proposal, any compliance costs borne by money market funds may be passed along to investors in the form of higher fund expense ratios. The proposed amendments are justified because they serve to protect investors of stable NAV funds and create price transparency in the event of negative yields.

6. Amendments to Disclosures on Form N–CR, Form N–MFP, and Form N–1A

a. Benefits and Costs of the Proposed Prompt Notice of Liquidity Threshold Events on Form N–CR and Board Reporting

The proposed amendments would require money market funds to file a Form N–CR report whenever a fund has invested less than 25% of its total assets in weekly liquid assets or less than 12.5% of its total assets in daily liquid assets. Specifically, in the event of such a liquidity threshold event, the amendments would require money market funds to disclose: the date of the initial liquidity threshold event, the percentage of the fund's total assets invested in both weekly liquid assets and daily liquid assets on the day of the event, and a brief description of the facts and circumstances leading to the event.

As a baseline matter, daily and weekly liquid assets are currently required to be disclosed on fund websites on a daily basis. Relative to that baseline, the proposed requirement for funds to report on Form N–CR may enhance Commission oversight and transparency about money market fund liquidity during times of stress by providing additional information about the circumstances of a fund's significantly reduced liquidity levels. The proposed amendments may also have the effect of incentivizing funds to maintain daily and weekly liquidity above the reporting thresholds, including in times of stress.

Publication of notices surrounding liquidity threshold events may inform investors about reasons behind the threshold event. To the degree that some funds' liquidity threshold events may be indicative of persistent liquidity problems or mismanagement of liquidity risk, and to the extent that notices may better inform investors about such causes (relative to baseline website disclosures of liquidity levels), publication of such notices may trigger investor redemptions out of the most distressed funds. However, this risk may be reduced because under the proposed swing pricing approach, redeemers would be charged the cost of their redemptions and related dilution costs would be recaptured by the shareholders remaining in the fund.

The proposal would also require money market funds to notify their boards when they drop below the 12.5% daily and 25% weekly liquidity asset thresholds, as discussed in section II.C.2. Since the proposal would require that liquidity threshold events are reported on Form N–CR, we preliminarily believe that funds would routinely notify the board of such events without an explicit board notification requirement. However, to the degree that some fund boards may not be notified of some events subject to Form N–CR reporting, the board notification requirement could enhance the oversight of fund boards over liquidity management, particularly during periods of stress.

The proposed amendments to Form N–CR would impose direct compliance costs by imposing reporting burdens discussed in Section IV. Due to economies of scale, such costs may be more easily borne by larger fund families. In addition, the proposed prompt notice requirement may give rise to two sets of costs. First, the proposed requirement may lead fund managers to manage their portfolios specifically to try to avoid a reporting event, rather than in a way that is most efficient for fund shareholders. Second, the proposed requirement may result in money market fund managers spending compliance resources on amending Form N–CR to describe the circumstances of the liquidity threshold event, which may divert managerial resources away from managing redemptions in times of stress. Costs borne by money market funds may be passed along to investors in the form of higher fees and expenses. However, as discussed above, the promptness of the notice requirement may enhance Commission oversight and transparency to investors, incentivize funds to closely monitor their liquidity levels, and ultimately better protect investors.

b. Benefits and Costs of the Proposed Form N–MFP Amendments

Proposed amendments to Form N–MFP would require reporting of daily data points on a monthly basis, of securities that prime funds have disposed of before maturity, of the composition of institutional money market funds' shareholders and concentration of money market fund shareholders, and of additional information about repurchase agreement transactions (including through the proposed removal of a provision that allows aggregate information when multiple securities of an issuer are subject to a repurchase agreement), among other changes.

Broadly, the proposed amendments to Form N–MFP may make the form more usable by filers, regulators, and investors, and may increase transparency around money market fund activities in four ways. First, the amendments may reduce uncertainty among filers and reduce filing errors. Second, the proposed requirement that the funds report their liquid assets, flows, and NAV on a daily basis may reduce costs of accessing this information relative to the baseline of routinely accessing and downloading information across many fund websites. Third, additional information about fund repo activities would enable investors and the Commission to better assess fund liquidity risks and oversee the industry. Fourth, information about shareholder concentration and composition can help the Commission and investors understand and evaluate potential redemption behavior and related investor risks.

In addition, the proposal would add disclosure requirements to Form N–MFP intended to capture information about the relevant funds' use of swing pricing, which would include each swing factor applied during the reporting period, the number of times a

fund applies a swing factor during the reporting period, and the end-of-day NAV per share (as adjusted by a swing factor, as applicable) for each business day of the reporting period. These amendments are expected to benefit investors in money market funds by reducing information asymmetries between institutional funds and investors about these funds' swing pricing practices. Investors in these funds experience price fluctuations and, thus, accept price risks inherent in floating NAVs. However, swing pricing has not yet been implemented by any U.S. open-end fund, and money market funds are currently not permitted to use swing pricing. The purpose of the proposed disclosure requirement is, thus, to inform investors about the manner in which affected money market funds implement swing pricing. Such transparency may result in greater allocative efficiency as investors with low tolerance of liquidity risk and costs may choose to reallocate capital to money market funds that have lower liquidity risk and costs. In addition, to the degree that uncertainty about the proposed swing pricing requirement may reduce the attractiveness of affected money market funds to investors, transparency about historical swing factors may reduce those adverse effects.

The proposed amendments to Form N–MFP would impose initial and ongoing PRA costs, as discussed in Section IV below. We understand that money market funds generally already maintain the information they would be required to report on Form N–MFP pursuant to other regulatory requirements or in the ordinary course of business. However, funds would incur some costs in reporting the information. We continue to note that, due to economies of scale, such costs may be more easily borne by larger fund families, and that costs borne by money market funds may be passed along to investors in the form of higher fees and expenses. In addition, the proposed disclosures of each swing factor, the number of times a swing factor was applied, and the end-of-day NAV per share (which would reflect applicable swing pricing adjustments to that end of day NAV) may create incentives for money market funds to compete on this dimension. Specifically, institutional investors who use institutional funds for cash management and prefer lower variability in the value of their investments may move capital from money market funds that had high historical swing factors to funds with lower swing factors. However, while NAV swings penalize redeemers, they benefit investors remaining in the fund, which may make funds actively using swing pricing more attractive to longer term institutional investors.

c. Benefits and Costs of the Proposed Amendments to Form N–1A

The proposal would require institutional money market funds to provide swing pricing disclosures to investors, including a risk disclosure. Specifically, the proposal would require funds required to implement swing pricing to explain how they use swing pricing and describe the effects of swing pricing on the fund's average annual total returns for the applicable period(s). This aspect of the proposed amendments to Form N–1A is expected to enhance transparency about institutional fund's swing pricing practices. NAV adjustments under the proposed swing pricing requirement would be a novel aspect of pricing, influencing both the dilution risk and the returns of affected funds. Disclosure about the effects of swing pricing on historical fund returns is expected to help investors understand the liquidity costs of redemptions from a particular fund, as well as the degree to which the fund would recapture dilution of shareholders remaining in the fund. However, the proposed amendments would impose direct reporting burdens estimated in Section IV—costs that may be more easily borne by larger fund complexes due to economies of scale, and costs that may be passed along in part or in full to end investors.

The proposed amendments would also remove current disclosures related to the imposition of liquidity fees and any suspension of redemptions, the need for which would be obviated by the proposal to remove fees and gates from rule 2a–7.

d. Benefits and Costs of Proposed Requirements Related to Identifying Information on Form N–CR and Form N–MFP

The proposed amendments would also require the registrant name, series name, related definitions, and LEIs for the registrant and series on Form N–CR. In addition, the proposal would require money market funds to report LEIs for the series on Form N–MFP.[369] The LEI is used by numerous domestic and international regulatory regimes for identification purposes.[370] As such, requiring these additional disclosures could enable data users such as investors and regulators to cross-reference the data reported on Forms N–CR with data reported on Forms N–MFP and with data received from other sources more easily, thereby expanding the scope of information available to such data users in their assessments.[371] All money market funds already have registrant and series LEI due to baseline Form N–CEN reporting requirements. The proposed amendments to Form N–MFP would also require other information to better identify different types of money market funds, such as amendments to better identify Treasury funds and funds that are used solely by affiliates and other related parties. These amendments would help the Commission and market participants to identify certain categories of money market funds more efficiently. However, the proposed requirements to improve identifying information may give rise to direct compliance costs associated with amending reporting on Forms N–CR and N–MFP, as discussed in Section IV.

In addition to the entity identification information (*e.g.,* registrant name, series name, related definitions, and LEIs) discussed above, the proposed amendments would also expand security identification information by adding a CUSIP requirement for collateral securities that money market funds report on Form N–MFP. CUSIP numbers are proprietary security identifiers and their use (including storage, assignment, and distribution) entails licensing restrictions and fees that vary based on factors such as the number of CUSIP numbers used.[372] Money market funds are currently required to disclose CUSIP numbers for each holding they report on Form N–MFP.[373] As such, the incremental compliance cost on money market funds associated with the proposed CUSIP requirement, compared to the baseline, would be limited to those costs, if any, incurred by money market funds as a result of storing additional CUSIP numbers (to the extent money market funds do not already store CUSIP

[369] Under the baseline, money market funds are already currently required to report registrant LEIs on Form N–CEN.

[370] Other regulators with LEI requirements include the U.S. Federal Reserve, E.U.'s MiFid II regime, and Canada's IIROC; the LEI is also used by private market participants for risk management and operational efficiency purposes. *See https://www.leiroc.org/lei/uses.htm.*

[371] Fees and restrictions are not imposed for the usage of or access to LEIs.

[372] The CUSIP system (formally known as CUSIP Global Services) is owned by the American Bankers Association and managed by Standard & Poor's Global Market Intelligence. *See* CGS History, *available at https://www.cusip.com/about/history.html*, and License Fees, *available at https://www.cusip.com/services/license-fees.html.*

[373] *See* Item C.3 of Form N–MFP.

numbers for their collateral securities).[374]

e. Benefits and Costs of Proposed Structured Data Requirement for Form N–CR

The proposed amendments would require money market funds to submit reports on Form N–CR using a structured, machine-readable data language—specifically, in an XML-based language created specifically for Form N–CR (''N–CR-specific XML'').[375] Currently, money market funds submit reports on Form N–CR in HTML or ASCII, neither of which is a structured data language.[376] This aspect of the proposed amendments is expected to benefit investors in money market funds by facilitating the use and analysis, both by the public and by the Commission, of the event-related disclosures reported by money market funds on Form N–CR, as compared to the current baseline. The improved usability of Form N–CR could enhance market and Commission monitoring and analysis of reported events, thus providing greater transparency into potential risks associated with money market funds on an individual level and a population level.

We anticipate that the incremental costs associated with requiring money market funds to submit reports on Form N–CR in N–CR-specific XML, compared to the baseline of submitting Form N–CR in HTML or ASCII, would be low given that money market funds already utilize XML-based languages to meet similar requirements in their other reporting, and can utilize their existing capabilities for preparing and submitting Form N–CR.[377] Under the proposed rule, money market funds that choose to submit Form N–CR directly in N–CR-specific XML (rather than use the fillable web form) would incur the incremental compliance costs of updating their existing preparation and submission processes to incorporate the new technical schema for N–CR-specific XML.[378]

7. Amendments Related to the Calculation of Weighted Average Maturity and Weighted Average Life

The Commission is proposing amendments to rule 2a–7 to specify that WAM and WAL must be calculated based on percentage of each security's market value in the portfolio, rather than based on amortized cost of each portfolio security. These amendments may enhance consistency and comparability of disclosures by money market funds in data reported to the Commission and provided on fund websites. A consistent definition of WAM and WAL across funds can enhance transparency for investors seeking to assess the risk of various money market funds and may increase allocative efficiency. Moreover, greater comparability of WAM and WAL across money market funds may enhance Commission oversight of risks in money market funds. These amendments are not expected to give rise to direct compliance costs. Specifically, we understand that all money market funds currently determine the market values of their portfolio holdings.[379] Thus, the costs of these proposed amendments may be de minimis.

D. Alternatives [380]

1. Alternatives to the Removal of the Tie Between the Weekly Liquid Asset Threshold and Liquidity Fees and Redemption Gates

The proposal could have replaced the 30% weekly liquid asset threshold for the imposition of redemption gates or fees with a different threshold. This alternative would allow money market funds to impose gates or fees during large redemptions to reduce some of the dilution costs during large redemptions. However, this alternative could still trigger runs on money market funds close to the regulatory threshold in times of liquidity stress. When funds approach any regulatory threshold that can trigger a redemption gate or fee, investors are incentivized to redeem ahead of others to avoid a potential gate or fee and retain access to their capital during liquidity stress. Thus, the existence of a transparent threshold, rather than the size of the threshold itself, may make money market funds vulnerable to runs. Moreover, even under the proposed removal of redemption fees and gates under rule 2a–7, money market funds are still able to reduce dilution costs during large redemptions under current rule 22e–3 where a fund's weekly liquid assets drop below 10%. A fund's board could also determine to impose redemption fees under Rule 22c–2.

The proposal could also have reduced or eliminated the transparency of the trigger for the imposition of redemption gates and liquidity fees. For example, the proposal could have required fund boards to impose their own policies and procedures around factors they would take into account before redemption gates and fees are imposed that are not transparent to investors. As another alternative, the proposal could have required fund managers to seek regulatory approval confidentially before a fund is able to impose a redemption fee or gate. As yet another alternative, the proposal could have preserved the 30% weekly liquid asset trigger for the potential imposition of a fee or gate, while prohibiting the public disclosure of weekly liquid assets.

These alternatives would increase uncertainty among investors about how close a given money market fund is to imposing a redemption gate or fee in times of severe market stress. Because the first mover advantage is strongest when a fund is on the cusp of imposing a redemption gate or fee (as many money market fund investors may be risk averse and the potential imposition of redemption gates could reduce shareholders' access to liquidity), investor uncertainty about whether a fund is approaching a redemption gate or fee could prevent runs. The alternatives making the imposition of redemption gates or fees discretionary, subject to regulatory approval, or mechanical but triggered by an unobserved level of weekly liquid assets would also increase investor uncertainty but could disrupt run dynamics.

However, these alternatives involve drawbacks. First, while such alternatives could interrupt runs on the funds closest to the imposition of the redemption gate or fee, they could also trigger runs on funds that were less illiquid and less likely to impose redemption gates or fees. For example, a lack of transparency about which funds are close to imposing liquidity

[374] CUSIP license costs vary based upon, among other factors, the quantity of CUSIP numbers to be used, on a tiered model, with the lowest tier being up to 500 CUSIP numbers. *See* CGS License Structure, *available at https://www.cusip.com/services/license-fees.html#/licenseStructure.* Based on our understanding of current CUSIP licenses and usage among money market funds, we do not believe the proposed CUSIP reporting requirement for collateral securities is likely to impose incremental compliance costs on money market funds by moving them into a new CUSIP license pricing tier.

[375] This would be consistent with the approach used for other XML-based structured data languages created by the Commission for certain specific EDGAR Forms, including Form N–CEN and Form N–MFP. *See* Current EDGAR Technical Specifications, *available at https://www.sec.gov/edgar/filer-information/current-edgar-technical-specifications.*

[376] *See supra* footnote 247.

[377] *See supra* footnote 331. In addition, money market funds would be given the option of filing Form N–CR using a fillable web form that will render into N–CR-specific XML in EDGAR, rather than filing directly in N–CR-specific XML using the technical specifications published on the Commission's website.

[378] *See infra* Section IV.E.

[379] Money market funds that use a floating NAV use market values when determining a fund's NAV, while money market funds that maintain a stable NAV are required to use market values to calculate their market-based price at least daily.

[380] This discussion supplements the discussion of alternatives in other sections of the release.

fees or gates may lead risk averse investors to redeem from money market funds in general to preserve access to their capital during times of liquidity stress, which can lead to runs on more liquid and less liquid funds alike. Second, requiring money market fund managers to receive permission from the Commission before a redemption gate or fee is imposed may create undue delay during market stress events.[381] Third, these alternatives would not present the same benefits from the proposed approach, which would both reduce run incentives related to the potential imposition of redemption gates or fees and, upon net redemptions, require redeeming shareholders to pay for the dilution cost they impose on the fund (under the proposed swing pricing approach discussed below).

2. Alternatives to the Proposed Increases in Liquidity Requirements

a. Alternative Thresholds

The proposal could have included a variety of alternative daily and weekly liquid asset thresholds. To quantify the potential effect of various liquidity thresholds on the probability that money market funds would confront liquidity stress, we modeled stress in publicly offered institutional prime fund portfolios using the distribution of redemptions from 42 institutional prime funds observed during the week of March 16 to 20, 2020 (''stressed week'') at various starting levels of daily and weekly liquid assets. The possible new thresholds determined by stress in publicly offered institutional prime fund portfolios were then applied to all money market funds except for the daily liquid asset threshold for tax-free money market funds. We also calculated from the distribution of daily and weekly liquidity asset values what percentage of retail and institutional prime funds combined would be impacted by the various liquidity thresholds. The analysis below estimates the probability that a publicly offered institutional prime fund with a given level of daily and weekly liquid assets would deplete daily liquid assets to meet redemptions (and have to liquidate assets under stressed market conditions) on a given day during the stressed week.[382] Specifically, Figure 14 below plots the probability that a fund will run out of daily liquid assets on a given day of the stressed week. For the proposed thresholds of weekly liquid assets at 50% and daily liquid assets at 25%, Figure 14 shows that less than 10% of funds would deplete daily liquid assets and be unable to absorb redemptions out of daily liquid assets on at least one of the five stressed days. By contrast, a threshold of 15% daily liquid assets and 40% weekly liquid assets would approximately double the estimate of funds that would deplete daily liquidity to meet redemptions on at least one of the days of a stressed week (to approximately 20%). As referenced above, the largest weekly and daily redemption during the week of March 16 to 20, 2020, was approximately 55% and 25% respectively. Thus, an approach aimed at eliminating the risk of funds having insufficient liquid assets to absorb redemptions (using redemption data from March 16 to20, 2020) would require funds to hold more than 55% of weekly and at least 25% of daily liquid assets. Lower thresholds increase the probability that some funds may deplete their liquid assets to meet redemptions, but also reduce the adverse impacts described above.

Figure 14: The Probability that A Fund will Run Out of Daily Liquid Assets under Different Minimum Liquidity Thresholds Assuming WLA = DLA + 25%.

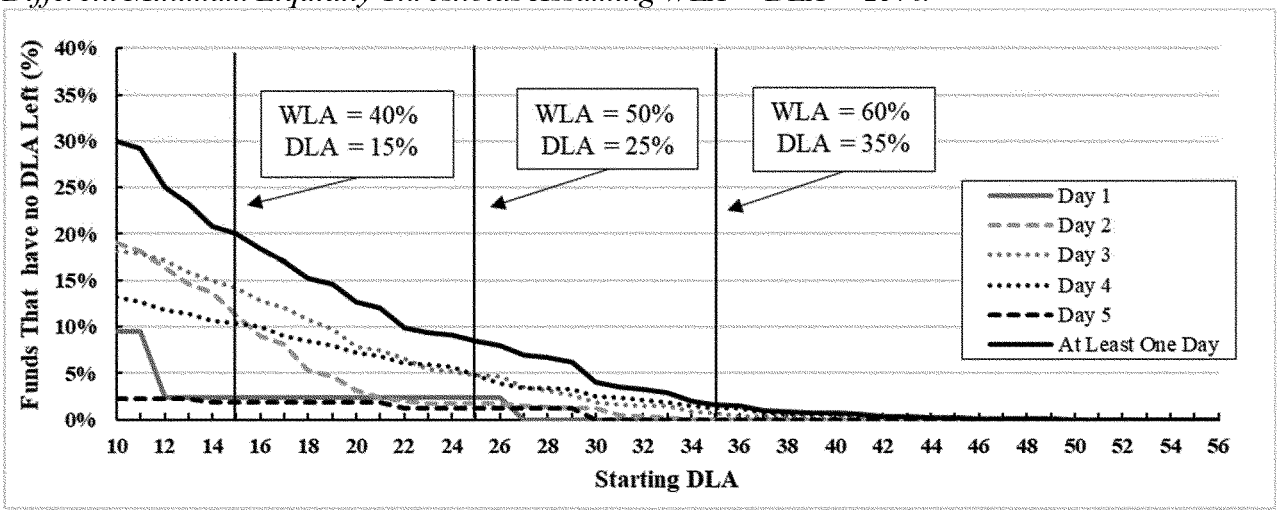

Table 5 quantifies the daily probability that a publicly offered institutional prime fund depletes daily liquid assets to meet redemptions under four scenarios: The current baseline daily and weekly liquid asset thresholds, thresholds based on the largest daily and weekly redemption during the week of March 16, 2020; pre-COVID weighted mean daily and weekly liquid assets; and post-COVID weighted mean daily and weekly liquid assets. The baseline scenario would require no change for money market funds; the ''biggest redemptions'' alternative would require approximately 10% of all prime funds (including both institutional and retail prime funds) to increase their daily liquid assets and approximately 75% of all prime funds to increase their weekly liquid assets. The alternative of imposing thresholds at the ''pre-COVID'' mean would require approximately 25% of all prime funds to increase their daily and 50% of all prime funds to increase their weekly liquid assets. Finally, the alternative

[381] *See, e.g.,* SIFMA AMG Comment Letter; Comment Letter of James L Setterlund (Apr. 12, 2021) (''James Setterlund Comment Letter'').

[382] *See supra* footnote 206.

that would impose ''post-COVID'' average liquidity metrics on the industry would require approximately 50% of all prime funds to increase daily and 75% of all prime funds to increase weekly liquid assets.

Table 5: Probability a Publicly Offered Institutional Prime Fund Runs out of Liquidity under the Baseline and 3 Alternative Thresholds

	Liquidity		Probability that a Fund Depletes Available Liquidity on a Given Day					
Model	DLA	WLA	Day 1	Day 2	Day 3	Day 4	Day 5	At Least One Day
Current Threshold	10%	30%	9.5%	21.5%	22.3%	18.6%	3.3%	32.3%
Biggest Redemptions	25%	55%	2.4%	1.4%	3.6%	3.6%	0.0%	6.5%
Pre-COVID (Weighted Mean)	33%	48%	0.0%	0.4%	2.5%	3.9%	1.7%	5.7%
Post-COVID (Weighted Mean)	44%	56%	0.0%	0.0%	0.0%	0.5%	0.0%	0.5%

This analysis includes a number of modeling assumptions. First, institutional prime fund redemptions were historically higher than redemptions out of retail funds, which may bias the analysis to overestimate the probability a retail or private institutional prime fund runs out of liquidity on a given day. Second, the analysis assumes that assets maturing on a given business day will be available at the end of that day. Third, the analysis assumes no assets are sold into a distressed market and redemptions are absorbed fully into a fund's liquid assets. Fourth, the models do not include government agency securities with a maturity in excess of seven days, and assume Treasury securities have daily liquidity regardless of maturity and can be sold without any loss. Fifth, the analysis assumes that funds would go below the 30% weekly liquid asset threshold, continuing to meet redemptions out of liquid assets, rather than hold on to the weekly liquid assets. As discussed above, the removal of the trigger for the potential imposition of redemption gates may increase the willingness of money market funds to meet redemptions with daily and weekly liquid assets. Sixth, these estimates are based on redemption patterns in March 2020 and the distribution of future redemptions may differ, in part, as a result of the proposed amendments.

Therefore, the above estimates show that alternatives imposing higher minimum daily and weekly liquidity thresholds relative to the proposal would require funds to hold more liquid assets, reducing the risk of fund liquidations or selloffs that may necessitate future government backstops. However, higher minimum liquidity thresholds would require a larger number of money market funds to reallocate their portfolios towards lower yielding investments. In addition, higher liquidity thresholds may lead funds to increase the risk in the remainder of their portfolios to attract investor flows or to keep fund yields from sliding below zero and ensure the viability of the asset class (the latter risk may be more pronounced in very low interest rate environments). Moreover, higher liquidity requirements may increase the availability of funding liquidity through repos to leveraged market participants, resulting in a higher levels of risk taking in less transparent and less regulated sectors of the financial system. As discussed in more detail in Section III.C.2.a, an analysis of redemptions during market stress of March 2020 shows that, under the proposed liquidity thresholds, the probability that a fund depletes available weekly liquidity on at least one day during the stressed week was only approximately 9%. Thus, the proposed liquidity thresholds may be sufficient to meet redemptions during periods of liquidity stress.

Similarly, lower thresholds relative to the proposal would allow funds to hold less liquid assets, increasing fund liquidity risks. However, lower thresholds would decrease the number of money market funds having to shift portfolios; would reduce the incentives of funds to take larger risks in the less liquid portion of their portfolios; and would reduce the concentration of liquidity in repos that are used by leveraged market participants for funding liquidity. The proposed thresholds reasonably balance these economic costs and benefits.

b. Caps on Fund Holdings of Certain Assets

As an alternative to increasing the minimum daily and weekly liquid asset requirements, the Commission considered proposing caps on money market fund holdings of certain assets, such as commercial paper and certificates of deposit. Commercial paper and certificates of deposit lack an actively traded secondary market and are difficult to value or sell during times of liquidity stress. Limiting money market fund holdings of such instruments may reduce run risk to the degree that the illiquidity of all or a portion of a fund's portfolio may create externalities from redeeming investors borne by investors remaining in the fund, which may incentivize early redemptions.

However, this alternative relies on the assumption that commercial paper and certificates of deposit homogeneously reduce the liquidity of a fund's portfolio by more than other money market fund holdings across maturities. These assumptions may not always hold for different money market funds and over different time horizons. Moreover, to the degree that investors prefer funds that deliver higher returns and money market funds benefit from investor expectations of implicit government backstops during times of liquidity stress, money market funds may react to this alternative by changing the maturity structure of their portfolio and reallocating into other securities with potentially higher liquidity risk. For example, money market funds may substitute short-term commercial paper and certificates of deposit that are classified as daily or weekly liquid assets with longer term commercial paper and certificates of deposit that

would not be classified as daily or weekly liquid assets. Finally, because this alternative would involve defining the types of instruments subject to the cap, issuers may be able to create new financial instruments that are similar, and perhaps synthetically identical, to commercial paper and certificates of deposit along risk and return dimensions, but that would not be subject to the caps. The proposed approach, which would increase minimum daily and weekly liquid asset requirements, may reduce liquidity and run risk in money market funds without such potential drawbacks, while ensuring funds have minimum liquidity to meet large redemptions.

As another alternative, the proposal could have replaced the minimum daily and weekly liquid asset thresholds with asset restrictions, such as imposing a minimum threshold for holdings of government securities [383] and repos backed by government securities. Under the baseline, such assets are generally categorized as daily liquid assets. Thus, such an approach would have the effect of replacing minimum daily and weekly liquid asset thresholds with a single daily liquid asset threshold, and restricting the types of assets that would qualify as daily liquid assets. This alternative would reduce the liquidity risk of liquid assets held by money market funds, which may help them meet redemptions without transaction costs. However, waves of redemptions as experienced in 2008 and 2020 occur over multiple days, suggesting that money market funds need to have both daily and weekly liquidity to meet redemptions. Moreover, asset restrictions imposing large minimum thresholds for holdings of government securities would decrease not only the risk, but also the yield of money market funds and their attractiveness to investors, reducing the viability of the asset class in low interest rate environments. This approach would also further concentrate money market fund holdings in specific types of assets, which may increase the likelihood of funds selling the same assets to meet redemptions in times of stress.

Finally, under the baseline, funds falling below minimum liquid asset thresholds may not acquire any assets other than daily or weekly liquid assets, respectively, until funds meet those minimum thresholds. The proposal would retain this baseline approach, while increasing the absolute daily and weekly liquid asset thresholds. As an alternative, the proposal could have imposed penalties on funds or fund sponsors upon dropping below the required minimum liquidity threshold. Similarly, the proposal could have imposed a minimum liquidity maintenance requirement, which would require that a money market fund maintain the minimum daily liquid asset and weekly liquid asset thresholds at all times instead of the current requirement to maintain the minimums immediately after the acquisition of an asset. During the market stress in 2020, funds experiencing large redemptions were reluctant to draw down on weekly liquid assets due to the existence of the threshold for the potential imposition of redemption fees and gates. Such alternatives may have a similar effect of penalizing money market funds for using liquidity when liquidity is most scare, which may make money market funds reluctant to use daily and weekly liquid assets to meet large redemptions during market stress. As a result, money market funds would be incentivized to sell less liquid assets, such as longer maturity commercial paper, into distressed markets, rather than risk penalties and dropping below minimum liquidity maintenance requirements. This may increase transaction costs borne by redeeming investors and may result in money market fund redemptions magnifying liquidity stress in underlying securities markets.

3. Alternative Stress Testing Requirements

As an alternative to the proposed amendments to stress testing requirements, the proposal could have modified weekly liquidity thresholds that funds must use for stress testing. For example, the proposal could have required money market funds to perform stress testing using 15%, 20%, or 30% minimum weekly liquid asset thresholds. As another example, the proposal could have required money market funds to use specific minimum daily and weekly liquid asset thresholds. These alternatives would reduce the discretion of fund managers to identify their own optimal liquid asset thresholds for purposes of stress testing. However, as discussed above, optimum levels of liquidity will vary depending on the type of money market fund, investor concentration, investor composition, and historical distribution of redemption activity under stress, among other factors. The alternatives establishing bright line thresholds for stress testing could reduce the ability of funds to stress test against the most optimal liquid asset thresholds, which may reduce usability of stress testing results for board and Commission oversight.

4. Alternative Implementations of Swing Pricing

a. Alternative Thresholds for the Application of Market Impact Factors

As described in Section II.B above, the proposal would require funds to apply different swing factor calculations depending on the size of net redemptions. Specifically, if net redemptions are at or below 4% of the fund's NAV divided by the number of pricing periods per day, the swing factor would reflect spread and transaction costs of redemptions. If net redemptions exceed 4% of the fund's NAV divided by the number of pricing periods per day, the swing factor would include not only spread and transaction costs, but also a good faith estimation of market impacts of net redemptions. The proposal could have used a different net redemption threshold for the application of market impact factors. For example, the proposal could have required funds to estimate market impacts if net redemptions exceed 2% or 0.5% divided by the number of pricing periods per day. Based on an analysis in Table 6 below, these alternatives would require funds to estimate market impact factors on 10% or 25% of trading days.[384] Since net flows of these funds are zero at the median, and because there are only 53 institutional funds in our sample, a 10%-ile or 25%-ile alternative threshold would correspond to approximately 5 and 13 funds respectively having outflows greater than the threshold on an average trading day, relative to approximately 3 funds under the proposal. Alternatively, the proposal could have used different redemption thresholds for the swing factor calculation for institutional prime or institutional tax-exempt funds.

[383] *See, e.g.,* CCMR Comment Letter.

[384] This analysis is based on historical daily redemptions, but multiple NAV-strike a day funds would apply the threshold multiple times a day under the proposal. Thus, this analysis may under- or over-estimate how frequently a threshold may be applied.

Table 6: Daily Flows of Institutional Money Market Funds[385]

Institutional Funds	Average Fund Count	Percentiles						
		5%	10%	25%	50%	75%	90%	95%
Prime Only	37	-3.5%	-1.9%	-0.5%	0.0%	0.6%	2.2%	3.9%
Prime + Tax Exempt	47	-3.7%	-2.1%	-0.5%	0.0%	0.6%	2.3%	4.1%

Higher (lower) net redemption thresholds for the calculation of market impact factors would reduce (increase) the number of pricing periods for which affected money market funds must calculate market impact factors for portfolio securities, reducing (increasing) related costs and operational challenges. However, higher (lower) net redemption thresholds would also reduce (increase) the amount of dilution from redemptions that is recaptured by money market funds and accrue to non-transacting shareholders.

As can be seen from Table 6, the proposed 4% market impact threshold would represent approximately the 5th percentile of daily redemptions. We note that 1st and 5th percent correspond to standard confidence levels in statistical testing, and such confidence levels have been used in other Commission rules.[386] Importantly, when daily net redemptions reach 4%, most funds may experience significant market impact if they were to sell a pro-rata share of their portfolio holdings to meet redemptions. Thus, the proposed market impact threshold may appropriately tailor the market impact factor requirement to relatively rare pricing periods of extreme stress.

As another alternative, the proposal could have defined the market impact threshold on a fund-by-fund basis, with reference to a fund's historical flows.[387] For example, each fund could have been required to determine the trading days for which it had its highest flows over a set time period, and set its market impact threshold based on the 5% of trading days with the highest redemptions.[388] While this alternative could allow funds to customize their market impact thresholds to their historical redemption flows, it may reduce the comparability of money market fund returns for investors because swing factors, including the associated market impact factor, influence reported fund returns. Finally, such an alternative may create strategic incentives for fund complexes to open and close funds depending on historical redemption activity. For example, to the degree that the estimation of market impact factors may be burdensome, fund families may choose to close funds that experienced high redemptions to avoid the application of market impact factors.

b. Other Alternative Approaches to Market Impact Factors

The proposal could have required institutional funds to apply swing pricing as proposed, but without any requirement to estimate market impact factors. As a related alternative, the proposal could have made the use of market impact factors in swing factor calculations less prescriptive and more principled-based or optional in their entirety. These alternatives would reduce the likelihood and frequency with which affected money market funds would estimate market impacts, which may reduce costs and operational challenges of doing so. However, this may reduce the frequency and size of NAV adjustments and the benefits of swing pricing for non-transacting shareholders.

Increased discretion may allow funds to tailor the calculation of market impact factors to individual portfolio and asset characteristics and prevailing market conditions. This may make swing factors a more precise measure of liquidity costs assessed to redeeming investors. However, because swing factor adjustments influence reported fund returns, greater discretion over the calculation of swing factors may reduce the comparability of money market fund returns for investors. Moreover, because money market funds may not internalize the externalities that their liquidity management practices may impose on investors in the same asset class, they may not be incentivized to use such discretion in a way that mitigates those externalities.

c. Other Alternative Implementations of Swing Pricing

Under the proposal, all institutional prime and institutional tax exempt money-market funds would be required to apply swing pricing during pricing periods with net redemptions. As an alternative, the proposal could have required a fund to adopt policies and procedures that specify how the fund would determine swing pricing thresholds and swing factors based on a principles based approach, instead of specifying swing factor calculations and thresholds in the rule. As another alternative, the proposal could have made the application of swing pricing optional. The operational costs of implementing swing pricing are immediate and certain, while the benefits are largest in relatively rare times of liquidity stress. Moreover, while money market funds may have reputational incentives to manage liquidity to meet redemptions—and fund sponsors may have chosen to provide sponsor support in the past—institutional money market funds also face disincentives from investor behavior and collective action problems. Specifically, to the degree that institutional investors may use institutional prime and institutional tax-

[385] This table reports the results of an analysis of daily flows reported in CraneData on 1,228 days between December 2016 and October 2021. As of September 2021, CraneData covered 87% of the funds and 96% of total assets under management. Flows at the class level were aggregated to the fund level. Flows of feeder funds were aggregated for an approximation of flows for the corresponding master fund.

[386] For example, rule 18f-4 requires that an open end fund's value at risk model use a 99% confidence level. The Commission also considered requiring a different confidence level for the value at risk test, such as the 95% or 99% confidence levels. *See, e.g.,* Use of Derivatives by Registered Investment Companies and Business Development Companies, Investment Company Act Release No. 34084 (Nov. 2, 2020) [85 FR 83162 (Dec. 21, 2020)], at 83250.

[387] As another possibility, the proposal we could have allowed funds discretion over which historical period could be chosen. However, because money market funds may not internalize the externalities that their liquidity management imposes on investors in the same asset class, they may not be incentivized to use such discretion in a way that mitigates those externalities. For example, some affected funds may choose a historical time period that results in market impact thresholds that are too high, so that market impact factors are rarely applied. Moreover, because market impact thresholds would influence NAV adjustments and reported returns, the alternative may reduce the comparability of money market fund returns for investors.

[388] As another alternative, the rule could have required policies and procedures regarding the choice of a threshold percent level based on historical data.

exempt funds for cash management and are sensitive to NAV adjustments, funds may be disincentivized to swing the NAV and recapture the dilution costs for shareholders remaining in the fund.

These alternatives may allow funds not to implement swing pricing or to implement a swing pricing approach with higher swing thresholds and different swing factors (for example, without estimating market impacts). Relative to the proposal, these alternatives may allow funds to better tailor their liquidity management and swing pricing design to investor composition, portfolio and asset characteristics, and prevailing market conditions. This alternative may also avoid operational costs and challenges of swing pricing for some funds. To the degree that the implementation of swing pricing may increase the variability of fund NAVs which reduces the attractiveness of affected funds to investors, these alternatives may reduce potential adverse impacts of swing pricing on the size of the institutional money market fund sector, the number of institutional money market funds available to investors, and the availability of wholesale funding liquidity in the financial system. However, affected funds may not internalize the externalities that they impose on investors in the same asset classes or the externalities that redeeming investors impose on investors remaining in the fund. In addition, as a result of the collective action problem and disincentives from investor flows, no fund may be incentivized to be the first to implement swing pricing, even if all institutional money market funds recognize the value of charging redeeming investors for the liquidity costs of redemptions. Thus, these alternatives could reduce the likelihood that funds adjust the NAV to capture the dilution costs of net redemptions relative to the proposal because affected funds may not internalize the externalities that they impose on investors in the same asset class. This may reduce or eliminate important benefits of the proposed swing pricing requirement, including protecting non-transacting investors from dilution, reducing first-mover advantage and run risk, and reducing liquidity externalities money market funds may impose on market participants transacting in the same asset classes. In addition, relative to the proposal, these alternatives would increase fund manager discretion over the choice of swing threshold, swing factors, and the application of swing pricing in general. As a result, because the application of swing pricing in general and swing factor adjustments in particular influence reported fund returns, greater discretion over the application of swing pricing may reduce the comparability of money market fund returns for investors.

The proposal could have required institutional funds to adjust the NAV only when net flows exceed a certain swing threshold (either regulatory threshold or threshold selected by each institutional fund), allowing funds to not adjust the NAV at all when redemptions are low. As described in the economic baseline, money market funds generally hold highly liquid assets, and the proposal would require money market funds to hold even higher levels of daily and weekly liquid assets. As a result, unless both net redemptions and price uncertainty are large, institutional funds may be able to absorb redemptions of transacting investors without imposing large liquidity costs on the remaining investors. Thus, the alternative may allow institutional funds to avoid the costs and operational burdens of calculating spread and transaction costs when net redemptions are low.

However, alternatives that allow funds not to apply swing pricing when net redemptions are below a swing threshold selected by the fund may reduce the expected economic benefits of swing pricing. First, if money market funds are able to select their own swing thresholds, they may choose to set high swing thresholds, reducing the probability that funds would swing the NAV under normal conditions. To the degree that money market fund investors use institutional funds as a very low risk or cash-like investment vehicle and are averse to any fluctuations in the value of their money market fund holdings, these funds may seek to only swing the NAV when redemptions are large enough that they would have required fund liquidation. Second, in 2020 institutional money market fund investors appeared to be highly sensitive to the possibility that a redemption gate or fee would be imposed. To the extent money market investors are able or attempt to forecast when swing pricing would apply or attempt to do so, the existence of a swing threshold may incent these investors to redeem before the swing. Importantly, formulating a swing threshold based on redemptions in a particular pricing period, rather than based on historical redemptions, is likely to interrupt self-fulfilling run dynamics and eliminate incentives for strategic redemptions around swing thresholds.

The proposal could have allowed funds to calculate the swing factor under the assumption that the fund would absorb redemptions out of liquid assets (the so-called horizontal slice of the fund portfolio) or otherwise provide funds with flexibility to determine the costs based on how they would satisfy redemptions on a given day. Money market funds may manage their liquidity so as to be able to absorb redemptions out of daily and weekly liquid assets, rather than having to sell a pro-rata share of their portfolio holdings. Moreover, the proposal would require money market funds to hold higher levels of daily and weekly liquid assets. Assets that are not daily and weekly liquid assets can be illiquid and generally may need to be held to maturity by the fund. Thus, the alternative would allow funds to avoid swinging the NAV if they are able to, for example, by absorbing redemptions out of more liquid assets. This may reduce uncertainty for investors about the magnitude of the potential NAV adjustment, especially when liquidity is not scarce. However, this alternative would result in redeeming investors not being charged for the true liquidity costs of redemptions, which consist not only of the immediate costs of liquidating fund assets, but also of the cost of leaving the fund more depleted of liquidity and thus more vulnerable to future redemptions.

As another alternative, the proposal could have required that affected money market funds calculate the swing factor based on the fund's best estimate of the liquidity costs of redemptions. Under this alternative, swing factors may more accurately capture the costs of redemptions as funds would be able to tailor swing factors to their liquidity management strategies (whether that is, for example, liquidating pro-rata shares of portfolio holdings, absorbing redemptions out of daily or weekly liquidity, some combination of the two, or borrowing). However, this alternative would increase fund discretion in the calculation of swing factors, and fund manager incentives may not be aligned with incentives to accurately estimate liquidity costs of redemptions. For example, larger swing factors applied to redemptions benefit the fund and can improve reported fund performance. At the same time, disclosures about historical swing factors can incentivize fund managers to apply excessively low swing factors to attract investors.

The proposal could have required institutional funds to allocate the aggregate dollar cost of trading to gross (as opposed to net) redemptions. Under the alternative, redeeming investors

would bear the dilution cost of the redemptions, but not the dilution cost that comes from subscribers being able to buy into the fund at the lower adjusted NAV.[389] This approach could result in redeeming investors paying only the liquidity costs of their orders. However, this alternative may not fully compensate shareholders remaining in the fund for the full dilution cost associated with redemptions.

The proposal also could have required that institutional funds apply swing pricing to both net redemptions and net subscriptions. Relative to the proposal, this alternative would involve greater benefits to non-transacting investors by not only capturing the dilution costs of redemptions, but also the dilution costs arising out of the need to invest net subscriptions. At the same time, waves of subscriptions may be less likely to destabilize the money market fund sector in a way that leads to government support. Moreover, the alternative would increase the ongoing operational costs of swing pricing—costs that are expected to be passed along to fund investors that are already earning low or zero net yields in a low interest rate environment. Finally, as discussed in Section II above, applying the proposed swing pricing requirements to fund subscriptions would require these funds to make certain assumptions about how they invest cash from new subscriptions and, in some cases, these assumptions would be inconsistent with requirements in rule 2a–7.

5. Liquidity Fees

As an alternative to the proposed swing pricing requirement, the proposal could have required that institutional prime and institutional tax exempt money market funds establish board-approved procedures to impose liquidity fees that capture liquidity externalities of redemptions. As a related alternative, the proposal could have required institutional prime and tax-exempt money market funds to establish a dynamic liquidity fee framework that uses the same, or similar, parameters as swing pricing for determining when to impose a fee and how to calculate the fee. For instance, the liquidity fee framework could apply a fee any time the fund has net redemptions, and calculate the amount of the fee in the same or similar way as the swing factor under our proposed approach. Alternatively, the liquidity fee framework could be modified in the same or similar manner as one of the swing pricing alternatives discussed above (*e.g.,* the fee could apply only when net redemptions exceed a certain threshold, or the fee calculation method could be based on how the fund expects to satisfy redemptions instead of assuming sale of a vertical slice of the fund's portfolio).

While the PWG Report largely analyzed liquidity fees in the context of the removal of the ties between weekly liquid asset thresholds and the potential imposition of fees and gates, several commenters discussed the above related liquidity fee alternatives (collectively, the ''alternative liquidity fee approach''). For example, some commenters recommended allowing the board to impose liquidity fees when it determines that doing so is in the best interest of shareholders, without reference to a specific weekly liquid asset threshold.[390] Some commenters suggested a modified fee framework whereby money market funds would be required to have policies and procedures that provide the fund's board with direction on when to impose fees and how to calculate them, in order to impose fees that reflect the cost of liquidity.[391] Two such commenters suggested that the Commission could identify non-binding factors to consider (*e.g.,* net redemptions; portfolio specific characteristics like liquid assets, investor concentration, and diversity of holdings; and market-based metrics).[392] Under these commenters' suggested approach, funds would be required to disclose the possibility of liquidity fees to investors but could avoid providing information that would allow investors to preemptively redeem before fees apply.

Like the proposed swing pricing approach, the liquidity fee alternative would require funds to recapture the liquidity costs of redemptions to make non-redeeming investors whole. Thus, many of the economic costs and benefits of the proposed swing pricing approach are also expected with the liquidity fee alternative.

Specifically, like the proposed swing pricing requirement, the liquidity fee alternative may reduce dilution of non-redeeming shareholders in the face of net redemptions. Liquidity fees may reduce the first mover advantage, fund outflows during market stress, and dilution. To the degree that liquidity fees may reduce dilution, they may protect investors that remain in the fund, for instance, during periods of high net redemptions.

Similar to the proposal, the magnitude of liquidity fees applied by affected funds may be quite small since money market funds hold relatively high quality and liquid investments, which may reduce liquidity costs when meeting redemptions. The fact that the alternative may result in relatively small liquidity fees as well as the inability of investors to observe at the time of placing their orders whether the liquidity fee will be applied may interrupt self-fulfilling run dynamics and reduce the likelihood of strategic behavior around liquidity fees. The alternative would address the dilution that can occur when a money market experiences net redemptions and would not result in large liquidity fees unless there is significant net redemption activity leading to large liquidity costs.

Some of the direct and indirect costs of the liquidity fee alternative may be similar to those of the proposed swing pricing requirement. First, a liquidity fee framework in which funds are more likely to apply liquidity fees relative to the baseline may reduce investor demand for institutional prime and institutional tax-exempt money market funds. Reduced investor demand may lead to a decrease in assets under management of affected money market funds, thereby potentially reducing the wholesale funding liquidity they provide to other market participants. If some institutional money market fund investors are concerned about preserving their invested capital and to the degree that the liquidity fee alternative would require redeeming investors to bear the liquidity risk of their redemptions (a risk they do not currently internalize), the alternative may reduce investor demand for institutional money market funds.

Second, the liquidity fee alternative could impose costs on investors redeeming shares in response to poor fund management or a fund complex's emerging reputational risk. The alternative would assess liquidity fees based on the liquidity costs of effecting redemptions and regardless of the cause for the redemptions. Similar to the proposed swing pricing approach, this could reduce the strength of market discipline of poor fund management.

[389] Some regulatory authorities in other countries allow fund managers to choose one of two allocation rules: A rule under which costs are fully borne by subscribing and redeeming investors and a rule under which costs are borne on a pro-rata basis by transacting investors. *See, e.g.,* ''Code of Conduct for Asset Managers Using Swing Pricing and Variable Anti-Dilution Levies,'' 2016, *available at https://www.afg.asso.fr.*

[390] *See, e.g.,* JP Morgan Comment Letter; Federated Hermes I Comment Letter; Federated Hermes II Comment Letter; Wells Fargo Comment Letter; ICI I Comment Letter; Western Asset Comment Letter.

[391] *See, e.g.,* JP Morgan Comment Letter; ICI I Comment Letter; Western Asset Comment Letter.

[392] *See, e.g.,* JP Morgan Comment Letter; ICI I Comment Letter.

Third, liquidity fees would require affected funds to pass along liquidity costs of redemptions onto investors. This may decrease the need of funds to provide and investor expectation of sponsor support to cover liquidity costs of redemptions. As a result, like the proposed swing pricing approach, the liquidity fee alternative could magnify the incentives of affected funds to invest in more illiquid assets, may reduce their incentives to manage downside liquidity risk, and may reduce fund incentives to find the cheapest way to source liquidity to meet redemptions. In addition, fund managers may be incentivized to apply liquidity fees frequently and to use their discretion to apply larger liquidity fees because they improve a fund's reported returns and benefit the fund. These factors may be partly mitigated by reputational incentives of fund managers, to the degree that the large and frequent application of liquidity fees may discourage liquidity seeking investors from allocating to such funds. Fourth, the implementation of the alternative liquidity fee approach would pose some operational challenges and impose related costs on money market funds, third party intermediaries, as well as investors. Similar to the proposed swing pricing approach, the calculation of liquidity fees would require affected money market funds to estimate spread and other costs on days with net redemptions, which may be particularly time consuming and challenging during times of stress. As discussed above, many assets that money market funds hold are not exchange traded and do not have an active secondary market. As a result, estimating spread costs and market impact factors of each component of a money market fund portfolio may be time consuming and difficult, especially during a liquidity freeze.

The liquidity fee alternative also has several important differences from the proposed swing pricing approach, and these differences give rise to different economic benefits, costs, and operational challenges. Specifically, the proposed swing pricing approach would recapture dilution costs of redemptions by adjusting the NAV of the fund as a whole depending on the volume of net redemptions, spread and other costs, and estimates of market impacts. The liquidity fee alternative would, instead, require funds to assess liquidity fees on redeeming investors depending on the same or similar considerations.

As a result, the alternative liquidity fee approach may have several benefits relative to the proposed swing pricing approach. First, liquidity fees could be more transparent than a swing factor adjustment to the fund's NAV, as redeeming investors would more clearly see application of a separate fee. However, while redeeming investors would enjoy greater transparency regarding liquidity fees, other investors would not observe when a liquidity fee is charged. Second, similar to the proposed swing pricing approach, liquidity fees would mitigate dilution. However, under the proposed swing pricing approach redeemers compensate the fund for the dilution of redemptions as well as the dilution from subscriptions. Thus, redeemers would subsidize subscribers in the fund—an incentive effect that may be particularly important when liquidity is scarce and a fund is facing a wave of redemptions. By contrast, the alternative liquidity fee approach could charge redeeming investors fees that compensate the fund for dilution from redemptions only. While the liquidity fee alternative would not create a positive incentive for subscriptions, it would avoid charging subscribers for more than the liquidity cost of their redemptions. Third, if liquidity fees are to be assessed after the NAV is struck, it could reduce the operational challenges and time pressures of swing pricing and allow affected money market funds to charge the ex post trading costs to redeeming investors. The alternative liquidity fee approach could avoid the potentially adverse impacts of swing pricing on settlement cycles and may be less likely to affect the number of NAV strikes some funds currently offer each day.

Importantly, the alternative liquidity fee approach could give rise to several sets of operational concerns and related costs. In contrast with the proposed swing pricing approach, which is implemented through affected funds adjusting the NAV, the alternative liquidity fee approach would require intermediaries to assess fees to investors. As a result, the alternative liquidity fee approach would require greater involvement by intermediaries in applying the fees and submitting the proceeds to the fund. While intermediaries to non-government money market funds and other service providers should be equipped to impose liquidity fees under the current rule, the alternative liquidity fee approach would likely result in more frequent and varying application of fees than the current rule contemplates. Requiring intermediaries to apply a fee more frequently, with the potential to change in amount from pricing period-to-pricing period, could introduce additional operational complexity and cost. By consequence, intermediaries may need to develop or modify policies, procedures, and systems designed to apply fees to individual investors and submit liquidity fee proceeds to the fund. In addition, liquidity fees may require more coordination with a fund's service providers than swing pricing, since fees need to be imposed on an investor-by-investor basis by each intermediary, which may be particularly difficult with respect to omnibus accounts. Moreover, funds may not have insight into whether an intermediary is appropriately and fairly applying the liquidity fee to redeeming investors and affected funds may need to develop or modify policies and procedures reasonably designed to ensure intermediaries are appropriately and fairly applying the fees. Finally, due to the costs that the alternative may impose on intermediaries and distribution networks of affected funds, the alternative liquidity fee approach may require money market funds to alter their intermediary distribution contracts, networks, and flow aggregation practices. We lack data to quantify such burdens and costs and solicit comment and data that would inform this analysis.

6. Expanding the Scope of the Floating NAV Requirements

The proposal could have expanded the floating NAV requirements to a broader scope of money market funds. For example, the proposal could have imposed floating NAV requirements on all prime money market funds, but not on tax-exempt funds.[393] As another alternative, the proposal could have imposed floating NAV requirements on all prime and tax-exempt money market funds.[394] Finally, the proposal could have required that all money market funds float their NAVs.[395]

Expanding the scope of the floating NAV requirements beyond institutional prime and institutional tax-exempt funds would involve several main benefits. First, a floating NAV may increase transparency about the risk of money market fund investments. Portfolios of money market funds give rise to liquidity, interest rate, and credit risks—risks that are relatively low under normal market conditions, but may be

[393] *See, e.g.,* PIMCO Comment Letter; Vanguard Comment Letter.

[394] *See, e.g.,* Schwab Comment Letter; Northern Trust Comment Letter.

[395] *See, e.g.,* Comment Letter of the CFA Institute (Apr. 14, 2021) (''CFA Comment Letter''); Comment Letter of Better Markets, Inc. (Apr. 12, 2021) (''Better Markets Comment Letter''); Systemic Risk Council Comment Letter; Comment Letter of Professor David Zaring, The Wharton School (Apr. 2, 2021) (''Prof. Zaring Comment Letter'').

magnified during market stress. To the degree that investors in stable NAV funds are currently treating them as if they were holding U.S. dollars due to a lack of transparency about risks of such funds, expanding the scope of the floating NAV requirements may enhance investor protections and enable investors to make more informed investment decisions. Some commenters stated that expanding a floating NAV requirement could enhance transparency about the underlying performance of credit-sensitive assets within prime money market funds.[396] Another commenter indicated that a floating NAV provides investors with more accurate information about the fund's financial condition, enhances transparency about the risks of the fund's portfolio holdings, and is consistent with the valuation of investment funds generally.[397] Yet another commenter suggested that a floating NAV can provide more flexibility and resilience than a stable NAV, but tax-exempt money market funds could continue to support a stable NAV as long as the Commission tightened portfolio restrictions on such funds.[398]

Second, these alternatives could reduce run risk in affected stable NAV funds. Specifically, floating the NAV may reduce the first mover advantage in redemptions, partly mitigating investor incentives to run. Some commenters supported the benefits of a floating NAV requirement in discouraging herd redemption behavior across all prime money market funds,[399] and suggested that a floating NAV may reduce the advantages of sophisticated investors that redeem quickly under stressed conditions.[400] We are also aware of research that examined fund outflows outside the U.S. and found reduced outflows in floating NAV funds.[401]

As a caveat, to the degree that heavy redemptions in floating NAV funds reduce available liquidity and credit quality of remaining fund holdings, investors may still be incentivized to redeem early, albeit at a NAV below $1. In this sense, floating the NAV may reduce, but not eliminate incentives for early redemptions during market selloffs that are present in securities markets and open-end funds more generally. Some commenters stated that floating the NAV of stable NAV funds would do little to reduce redemption activity during periods of market stress, particularly given that institutional prime funds experienced heavy redemptions in March 2020 despite having a floating NAV.[402] Another commenter opposed a floating NAV requirement, suggesting that it likely would not address run risk but may give the appearance of discouraging runs.[403] Some academic research[404] shows that floating the NAV in the US has not eliminated run risk in the redemption decisions of investors in institutional funds. However, that research does not distinguish between causal impacts of a floating NAV requirement and investor selection effects. Specifically, the paper does not rule out the possibility that investors that need liquidity the most invest in floating NAV and multi-strike funds and that such investors are also most likely to redeem in times of liquidity stress. Yet another paper models the problem theoretically and finds that a stable NAV can reduce risk taking by money market funds in low interest rate environments because it can create default risk and the need to have a buffer of safe assets, reducing risky investment when risk-free rates fall.[405]

Third, floating the NAV of a broader range of money market funds could more accurately capture their role in asset transformation and corresponding risks. As quantified in Section III.B.3.a, retail prime and retail tax exempt funds have some risky portfolio holdings. Specifically, some of the underlying holdings of retail money market funds are similar to those of institutional prime funds, which experienced significant stress in 2020. One commenter[406] supported floating the NAV for government money market funds, citing redemption pressure and run risks associated with U.S. debt ceiling negotiations and potential credit rating downgrades of U.S. Government securities and suggesting that all money market fund investors should be aware that all such funds can, and do, fluctuate in value. Expanding the floating NAV requirements to all money market funds would result in a consistent regulatory treatment of money market funds. Moreover, it may enhance the allocative efficiency in the money market fund industry and may enhance competition between floating NAV and stable NAV funds. For example, some commenters indicated that the disparate treatment of floating NAV and stable NAV funds led to a significant migration of institutional investments from prime and tax-exempt money market funds to government money market funds.[407] An alternative that would expand the scope of the floating NAV requirement to all money market funds may lead to outflows from government money market funds back into prime and tax-exempt sectors.

Floating NAV alternatives would give rise to three groups of costs. First, such alternatives may reduce the attractiveness of affected money market funds to investors and may result in significant reductions in the size of the money market fund sector.[408] The Commission understands that retail investors use money market funds as a safe, cash-like product. To that extent, floating the NAV of some or all stable NAV funds may lead investors of stable NAV funds to reallocate capital into cash accounts subject to deposit insurance.[409] In a somewhat parallel setting, in the aftermath of the 2016 implementation of the floating NAV requirement for institutional prime and institutional tax-exempt funds, approximately $1 trillion left newly floating NAV funds and flowed into government money market funds, matched by corresponding outflows from floating NAV products. About 90% of these outflows came from the larger institutional prime funds, while the remaining 10% came from the smaller institutional tax-exempt funds. Thus, many investors may flee to safety in times of stress and may be unlikely to

[396] *See, e.g.,* PIMCO Comment Letter.

[397] *See, e.g.,* CFA Comment Letter.

[398] *Id.* (noting that tax-exempt money market funds invest in entities that often have the taxing power to support their debt, may not be able to discharge their debt obligations through bankruptcy, and issue notes that offer contractual liquidity).

[399] *See, e.g.,* PIMCO Comment Letter.

[400] *See, e.g.,* Better Markets Comment Letter.

[401] *See, e.g.,* Witmer, Jonathan. 2016. ''Does the Buck Stop Here? A Comparison of Withdrawals from Money Market Mutual Funds with Floating and Constant Share Prices.'' Journal of Banking and Finance 66: 126–142.

[402] SIFMA AMG Comment Letter; ICI Comment Letter I; Western Asset Comment Letter; Fidelity Comment Letter; Federated Hermes Comment Letter I; JP Morgan Comment Letter; BlackRock Comment Letter; Americans for Financial Reform Comment Letter; Comment Letter of Madison E. Grady (Apr. 14, 2021) (''Madison Grady Comment Letter'').

[403] Comment Letter of Professor Jeffrey N. Gordon, Columbia Law School (Feb. 26, 2021) (noting that money market funds should not be treated similarly to other mutual funds because MMF investors typically redeem en masse during periods of liquidity stress and money market fund investments tend to be concentrated in the credit issuances of financial firms).

[404] *See,* Casavecchia, Lorenzo, Georgina Ge, Wei Li, and Ashish Tiwari. 2021. ''Prime Time for Prime Funds: Floating NAV, Intraday Redemptions and Liquidity Risk During Crises.'' Working paper.

[405] *See* La Spada, Gabriele. 2018. ''Competition, Reach for Yield, and Money Market Funds.'' Journal of Financial Economics 129(1): 87–110.

[406] *See, e.g.,* Better Markets Comment Letter.

[407] *See, e.g.,* CFA Comment Letter.

[408] *See, e.g.,* SIFMA AMG Comment Letter; Western Asset Comment Letter; Federated Hermes Comment Letter I (noting that some investors may choose to move assets to banks or to less regulated and less transparent products such as private funds).

[409] *See, e.g.,* Schwab Comment Letter.

remain invested in money market funds affected by the floating NAV alternative. Some commenters stated that a floating NAV requirement would, indeed, diminish the appeal of money market funds relative to other cash management vehicles.[410] Importantly, such reallocation effects are not necessarily suboptimal per se, if it is a result of greater investor awareness of the risks of money market fund investments.

Second, if the floating NAV alternatives resulted in a decrease in the size of the money market fund industry, they would adversely impact the availability of wholesale funding liquidity and access to capital for issuers. Prior research suggests that increasingly constrained balance sheets of regulated financial institutions after the financial crisis reduced both their involvement in arbitrage activities and their willingness to provide leverage to other arbitrageurs, leading to growing mispricings across markets.[411] Given this baseline, a reduction of wholesale funding liquidity available to arbitrageurs may magnify mispricings across securities markets. However, under the alternative, wholesale funding costs would more accurately reflect true costs of funding liquidity, since the alternative would reduce the distortions arising out of implicit government guarantees of money market funds. Similarly, a reduction in the size of affected money market funds or the money market fund industry as a whole would increase the costs of or decrease access to capital for issuers in short-term funding markets.[412] However, the current reliance of some issuers on short-term financing from money market funds that is susceptible to refinancing and run risks may be sustainable, in part, due to perceived government backstops of money market funds and lack of transparency to investors about the risks inherent in money market fund investments. While the alternative would impose potentially significant costs on issuers, it would do so by reducing cross-subsidization of money market funds and increasing transparency about risks of money market fund investments.

Third, the floating NAV alternative would involve significant operational, accounting, and tax challenges. Specifically, the Commission is concerned that switching retail funds from stable NAV to floating NAV may create accounting and tax complexities for some retail investors.[413] A floating NAV requirement may be incompatible with popular cash management tools such as check-writing and wire transfers that are currently offered for many stable NAV money market fund accounts.[414] In addition, a floating NAV alternative would involve many of the same implementation burdens on broker-dealers, retirement plan administrators, and other intermediaries[415] as the proposed amendment requiring that stable NAV funds determine that their intermediaries are capable of transacting at non-stable prices.

Importantly, the floating NAV alternative would not address three key market failures in money market funds. First, floating the NAV may reduce, but does not eliminate, the first mover advantage and corresponding run incentives during selloffs. As discussed above, floating NAV funds experienced a significant amount of redemptions in 2020. During past episodes of stress in money market funds (in 2008 and 2020), retail investor redemptions were far more limited than redemptions out of institutional prime money market funds. Moreover, as referenced above, in 2020 capital flowed into government money market funds as investors fled to safety. Future redemption dynamics in stable NAV funds may evolve as a function of investor type, risk tolerance, investment horizons, liquidity needs, and sophistication, among others. However, modest historical redemptions out of stable NAV funds may suggest that they are currently less susceptible to run risk, reducing the value of floating NAV alternatives for such funds.

Second, floating NAV alternatives would not alter economic incentives of stable NAV fund managers to reduce risk taking. For example, floating the NAV would not incentivize stable NAV fund managers to hold enough liquid assets and to have low enough credit risk to meet redemptions in times of stress; nor would it constrain portfolio composition. Insofar as investor flows remain sensitive to fund performance, and fund managers are compensated for performance, money market funds may have incentives to take greater risks to deliver higher returns. The proposed liquidity requirement amendments, while not altering incentives of fund managers, may meaningfully constrain money market fund portfolio composition and risk taking.

Third, floating NAV alternatives may not influence the liquidity risk of affected money market funds as directly as the proposal. At their core, money market funds transform capital subject to daily redemptions into short-term debt instruments that carry liquidity and credit risk. Some research suggests that floating the NAV would not reduce, and may even increase risk taking incentives.[416] However, as can be seen from Section III.B.3.b, the distribution of market NAV fluctuations among prime money market funds decreased around the compliance date with the 2014 amendments. In contrast, the proposed increases to daily and weekly liquidity requirements may directly reduce the amount of liquidity risk in money market fund portfolios.

7. Countercyclical Weekly Liquid Asset Requirement

The PWG Report raised an alternative countercyclical weekly liquid asset requirement approach. For instance, during periods of market stress, the minimum weekly liquid asset threshold could decrease, for example, by 50%. The proposal could have specified the definitions of market stress that would trigger a change in weekly liquid asset thresholds. Alternatively, the proposal could have specified that decreases in weekly liquid asset thresholds would be triggered by Commission administrative order or notice.[417]

Such alternatives could help clarify that money market funds' liquidity buffers are meant for use in times of stress and may provide assurance to investors that funds may utilize their liquidity reserves to absorb redemptions.[418] To the degree that these

[410] *See, e.g.,* SIFMA AMG Comment Letter; ICI Comment Letter I; Federated Hermes Comment Letter I; JP Morgan Comment Letter; Comment Letter of the National Association of State Treasurers and Government Finance Officers Association (Apr. 12, 2021) (''NAST and GFOA Comment Letter''); Comment Letter of the State Financial Officers Foundation and Ron Crane (Apr. 26, 2021) (''SFOF and Crane Comment Letter''); Madison Grady Comment Letter.

[411] *See, e.g.,* Boyarchenko, Nina, Thomas Eisenbach, Pooja Gupta, Or Shachar, and Peter Van Tassel. 2020. ''Bank-Intermediated Arbitrage.'' Federal Reserve Bank of New York Staff Report No. 854.

[412] SIFMA AMG Comment Letter; ICI I; Federated Hermes Comment Letter I; JP Morgan Comment Letter; NAST and GFOA Comment Letter (describing increased borrowing costs for municipalities upon the implementation of floating NAVs for institutional funds); SFOF and Crane Comment Letter; Madison Grady Comment Letter.

[413] *See, e.g.,* ICI Comment Letter I; Federated Hermes Comment Letter I; Madison Grady Comment Letter; Comment Letter of Carter Ledyard Milburn (Apr. 15, 2021).

[414] *See, e.g.,* ICI Comment Letter I; Madison Grady Comment Letter.

[415] *See, e.g.,* SIFMA AMG Comment Letter; ICI Comment Letter I; Federated Hermes Comment Letter I; Western Asset Comment Letter; JP Morgan Comment Letter; Dreyfus Comment Letter; BlackRock Comment Letter.

[416] *See, e.g.,* La Spada, Gabriele. 2018. ''Competition, Reach for Yield, and Money Market Funds.'' Journal of Financial Economics 129(1): 87–110.

[417] *See* ABA Comment Letter.

[418] *See* BlackRock Comment Letter; ABA Comment Letter; mCD IP Comment Letter; CFA Comment Letter.

alternatives may increase the willingness of affected funds to absorb redemptions out of daily or weekly liquidity during times of stress, the alternatives may reduce liquidity costs borne by fund investors and may reduce incentives to redeem.

However, an analysis of investor redemptions out of institutional prime and institutional tax exempt funds during market stress of 2020 points to a high level of sensitivity of redemptions to threshold effects. Thus, any decrease in regulatory minimum thresholds may create investor concerns about liquidity stress in money market funds and trigger an increase in investor redemptions. Moreover, under the current baseline, rule 2a–7 does not prohibit a fund from operating with weekly liquid assets below the regulatory minimum. The proposed elimination of the tie between liquidity thresholds and fees and gates under rule 2a–7may more efficiently incentivize funds to use their liquidity buffers in times of stress, while removing threshold effects around weekly liquidity levels.[419]

Moreover, alternatives involving Commission orders or notices triggering decreases in weekly liquidity thresholds may impede or slow fund liquidity management decisions during times of market stress. In addition, Commission action to reduce liquidity requirements may be read as a signal of broader stress in money market funds and may accelerate investor redemptions under stress.[420]

8. Alternatives to the Amendments Related to Potential Negative Interest Rates

As an alternative to the proposed amendments related to potential negative interest rates, the proposal could have allowed stable NAV funds to use the reverse distribution mechanism in lieu of requiring stable NAV funds to float the NAV in the event of persistent negative interest rates. This alternative would be consistent with the practice of European money market funds, which used a reverse distribution mechanism for a period of time, before the European Commission determined this approach was not consistent with the 2016 EU money market fund regulations. As another alternative, the proposal could have mandated that in the event of persistent negative interest rates, all stable NAV funds must use the reverse distribution mechanism.

Alternatives allowing (requiring) stable NAV funds to use a reverse distribution mechanism in the event of negative fund yields would reduce (eliminate) NAV fluctuations in a negative yield environment, which may enhance (preserve) the use of stable NAV funds for sweep accounting. Such alternatives may, thus, increase demand for government and retail money market funds, with positive effects on the availability of wholesale funding liquidity and capital formation. The alternatives would avoid disruptions to distribution networks of stable NAV funds if some of their intermediaries would be unable or unwilling to upgrade systems to process transactions at a floating NAV.

However, such alternatives may decrease price transparency to investors in stable NAV funds and may give rise to investor protection concerns. As discussed in Section II, under a reverse distribution mechanism, investors would observe a stable share price but a declining number of shares for their investment when a fund generates a negative gross yield. This may decrease the transparency and salience of negative fund yields to investors, particularly for less sophisticated retail investors. One commenter indicated that investors may observe a stable share price and assume that their investment in a fund with a stable share price is holding its value while the investment is actually losing value over time.[421] While disclosures could partly mitigate such informational asymmetries, we believe that reverse distribution mechanisms may mislead or confuse investors about the value and performance of their investments, particularly for retail money market fund investors.

9. Alternatives to the Amendments Related to Processing Orders Under Floating NAV Conditions for All Intermediaries

The proposal also could have not expanded existing requirements related to processing orders under floating NAV conditions to all intermediaries. Under this approach, stable NAV money market funds would not be required to keep records identifying which intermediaries they were able to identify as being able to process orders at a floating NAV. This alternative would avoid the costs of the proposed amendments related to intermediaries being required to upgrade systems if they are unable to process transactions in stable NAV funds at a floating NAV. However, beyond negative interest rates, there are other scenarios in which stable NAV money market funds may need to be able to float their NAVs, such as if they break the buck due to credit events or other market stress. Thus, this alternative could result in some intermediaries of stable NAV money market funds being unable to process certain transactions during severe stress, which could adversely affect the ability of investors to access their investments and further magnify stress in money market funds and short-term funding markets. Therefore, expanding the floating NAV processing conditions to all intermediaries, as proposed, would be appropriate even if we were to permit or require stable NAV funds to use a reverse distribution method.

10. Alternatives to the Amendments Related to WAL/WAM Calculation

The proposal would amend rule 2a–7 to require that WAM and WAL are calculated based on the percentage of each security's market value in the portfolio. The Commission could have instead proposed to base the calculation on amortized cost of each portfolio security. Similar to the proposal, such an alternative would also enhance consistency and comparability of disclosures by money market funds in data reported to the Commission and provided on fund websites. Thus, the alternative would achieve the same benefits as the proposal in terms of enhancing transparency for investors and enhancing the ability of the Commission to assess the risk of various money market funds and increasing allocative efficiency.

However, relative to the proposal, the alternative may give rise to higher compliance costs. While all money market funds are required to determine the market values of portfolio holdings, no such requirements exist for amortized costs of portfolio securities. Thus, funds that do not currently estimate amortized costs would be required to do so for the WAL and WAM calculation. Moreover, amortized cost may be a poor proxy of a security's value if market conditions change

[419] *See* JP Morgan Comment Letter (expressing the view that the introduction of fees and gates in the 2014 reform effectively nullified the intent of the 2010 reform's requirement that money market funds maintain a 30% WLA minimum in order to ensure that a fund could meet shareholder redemptions even when market conditions have deteriorated).

[420] *See* Western Asset Comment Letter; Fidelity Comment Letter; JP Morgan Comment Letter; SIFMA AMG Comment Letter (noting that ''[t]o the extent the Commission does consider countercyclical weekly liquid asset requirements, SIFMA AMG urges the Commission to further consider how the Commission could construct a countercyclical requirement that would apply on an automatic basis, versus requiring Commission action'').

[421] Jose Joseph Comment Letter (suggesting that if money market funds generate negative yields, ''[u]nilaterally redeeming the shares[] by reverse distribution is like cheating'' and that funds should instead inform shareholder and move to a floating NAV to be fair and transparent).

drastically due to, for example, liquidity or credit stress, and if the fund is unable to hold the security until maturity. This may distort WAL and WAM calculations during market dislocations—when comparable and accurate information about fund risks may be most important for investment decisions.

11. Sponsor Support

Dilution occurs because shareholders remaining in the fund effectively buy back shares at NAV from redeeming investors. The assets underlying those shares are eventually sold at a price that may differ from that NAV for the reasons described in the economic baseline, causing dilution in some cases. The proposal could have required money market fund sponsors to provide explicit sponsor support to cover dilution costs. For stable NAV funds, this alternative would mean purchasing assets so that their value remains $1 per share. For floating NAV funds, this would require a sponsor to pay redeeming shareholders the NAV, transfer the corresponding pro-rata assets to their balance sheet, sell the assets, and cover the difference between the value of those assets and the redemption NAV from their own capital.

The proposal only considers the mitigation of one of the factors that contributes to dilution (trading costs), but does not significantly change current incentives around the liquidity mismatch between money market fund assets and liabilities. In contrast, this alternative may significantly change incentives around the liquidity mismatch between money market fund assets and liabilities. Specifically, this alternative would give fund sponsors a more direct incentive to manage the amount of dilution risk they impose on a fund via their choice of fund investments.

Directly exposing the sponsor, rather than money market fund investors, to the dilution risk associated with the difference between NAV and the ultimate liquidation value of the fund's underlying securities could have several benefits. First, money market funds would have a stronger incentive to overcome any operational impediments that expose them to unnecessary risk. For example, funds might be incentivized to invest in developing more accurate valuation models of opaque assets so they can hedge their exposure to the difference between NAV and asset liquidation prices. Second, the amount of required operating capital to process redemptions/subscriptions would be higher for money market funds that held relatively less liquid securities, and money market funds would have to charge higher fees to raise that capital. Such fees would effectively externalize the costs of investing in less liquid assets via money market funds. As those fees increase, money market funds that hold less liquid assets might become less desirable to investors, and money market fund investors might select into other structures, such as closed-end funds, that are a more natural fit with illiquid assets. These benefits may be reduced to the degree that the sponsor support requirement may incentivize money market funds to take additional risks to recoup the sponsor's costs or may incentivize fund managers to increase risk taking due to the backstop of the sponsor support.[422]

Such an alternative approach may significantly disrupt the money market fund industry. First, it would make sponsoring money market funds a more capital intensive business, which might reduce or create barriers to entry into the money market fund industry, disadvantage smaller funds and fund complexes, and increase concentration.[423] Second, it could cause fund sponsors to opt, instead, for other open-end funds, ETFs, or closed-end funds as vehicles for certain less liquid assets. Third, it may reduce the attractiveness of money market funds to investors as it may reduce fund yields and the number of available money market funds.[424] The alternative, may thus, significantly reduce the number of fund sponsors offering money market funds and the number of money market funds available to investors. Importantly, we recognize that some aspects of the proposal—such as the proposed swing pricing amendments, the proposed increases to liquidity requirements, and the proposed amendments related to negative interest rates—may reduce the attractiveness of affected money market funds for investors and the size of the money market fund sector. These adverse effects may flow through to institutions, such as banks, and to leveraged participants, such hedge funds, that rely on banks for liquidity and capital formation.

The effects of the sponsor support alternative on investors may be mixed. On the one hand, sponsor support may increase the ability of investors to redeem their shares in full without bearing liquidity costs. On the other hand, sponsor support could lead some investors to believe that their investments carry no risk and may make investors less discerning in their choice of money market fund allocations.[425] Moreover, sponsor support reduces investor risk only to the degree that fund sponsors are well capitalized and easily capable of providing sponsor support. Uncertainty surrounding the ability of the sponsor to provide support to the money market fund could trigger a wave of shareholder redemptions, particularly during stressed conditions.[426]

12. Disclosures

a. Eliminating Website Disclosure of Fund Liquidity Levels

The proposal could have eliminated the requirement that money market funds post their daily and weekly liquid assets on their websites. As discussed above, the Commission understands that the public nature of fund liquid asset disclosures, in combination with the regulatory thresholds for the potential imposition of redemption fees and gates, may have triggered a run on institutional money market funds and made other funds reluctant to use liquid assets to absorb redemptions if it meant approaching or falling below regulatory thresholds. The proposal would partly mitigate run incentives surrounding disclosures of daily liquid assets, by removing the tie between liquid assets and the potential imposition of fees and gates, but also increasing minimum daily and weekly liquidity requirements and imposing a requirement to promptly report liquidity threshold events. Moreover, money market funds play an important asset transformation role and inherently carry liquidity risks. The Commission believes that public disclosures of money market fund liquidity convey important information to investors about the liquidity risks of their investments.

b. Alternatives to the Proposed Form N–MFP Amendments

We could have proposed Form N–MFP amendments without including some or all of the proposed new collections of information. For example, the proposal could have amended Form

[422] *See* JP Morgan Comment Letter; ICI Comment Letter I.

[423] *See, e.g.,* Western Asset Comment Letter; Fidelity Comment Letter; State Street Comment Letter; BlackRock Comment Letter; JP Morgan Comment Letter (stating that bank-affiliated sponsors would likely be required to hold capital against any potential support obligation).

[424] *See* Western Asset Comment Letter; Federated Hermes I Comment Letter.

[425] *See* Federated Hermes I Comment Letter; ICI I Comment Letter; Carter, Ledyard, Milburn Comment Letter.

[426] Federated Hermes I Comment Letter.

N–MFP without requiring new disclosures related to repurchase agreement transactions or related to investor concentration and composition. While these alternatives may have reduced compliance burdens compared to the proposal, compliance with disclosure requirements may involve significant fixed costs. As a result, the elimination of one or several items from the proposed amendments may not lead to a proportional reduction in compliance burdens. Moreover, information about repurchase agreement transactions, fund liquidity management, investor concentration and composition, and sales of securities into the market would provide important benefits of transparency for investors and would enhance Commission oversight.

The proposal would require the disclosure of every swing factor applied in the reporting period by date. Alternatively, the proposal could have required the disclosure of less information about when the fund swings the NAV. For example, the proposal could have required disclosure of the lowest, median, and highest swing factor a fund applied in a given reporting period. Alternatives proposing less information about fund swing pricing practices and eliminating current website disclosures of daily fund flows would reduce the scope of the economic benefits and costs of the proposed amendments described above. To the degree that disclosures of swing factors may make swing factors more salient to investors and may lead funds to compete on swing factors, alternatives proposing less disclosure about swing factors can reduce those effects. Moreover, to the degree that granular disclosure about historical swing factors can incentivize or inform strategic redemption behavior, alternatives involving less disclosure about swing factors can reduce those effects.

c. Alternatives to the Proposed Form N–CR Amendments

The proposal could have required money market funds to make notices concerning liquidity threshold events public with a delay (*e.g.,* 15, 30, or 60 days). The proposal alternatively could have required that some or all information about the liquidity threshold event be kept confidential upon filing. Under the baseline, such funds are required to report daily and weekly liquid assets daily on fund websites. To the degree that the publication of such notices gives investors additional information about fund liquidity management and can trigger investor redemptions out of funds with low levels of weekly and daily liquid assets, the alternatives may reduce the risk of redemptions around liquidity thresholds and the increase the willingness of funds to absorb redemptions out of their weekly liquidity relative to the proposal. However, relative to the proposal, the alternatives would reduce the availability of a central source that investors could use to identify when money market funds fall more than 50% below liquidity requirements. The delayed reporting alternative also would reduce the amount of information available to investors surrounding the context for the liquidity threshold events as notices are likely to clarify reasons for the threshold event. Thus, the alternative would reduce transparency for investors around liquidity management of affected money market funds, which may reduce allocative efficiency. Notably, a delay in publication of the notices may increase staleness of the information in the notices.

In addition, the proposal could have amended Form N–CR to include some of the proposed new collections of information on Form N–MFP. For example, the proposal could have amended Form N–CR to include information about sales of securities into the market of prime funds that exceed a particular size. This alternative would enhance the timeliness of such reporting. Thus, the alternative may enhance transparency about fund liquidity management for investors, which may enhance informational and allocative efficiency and Commission oversight. However, the alternative would increase direct reporting burdens related to the filing of Form N–CR—costs that may flow through in part or in full to end investors in the form of fund expenses. Moreover, timely reporting of prime funds' sales of portfolio securities may signal fund liquidity stress to investors even where funds may be able to maintain their daily and weekly liquidity levels. This may influence investor decisions to redeem out of reporting funds; thus, relative to the proposal, the alternative may place heavier redemption pressure on reporting funds.

With respect to the proposed structured data requirement for Form N–CR, the proposal could have required Form N–CR to be submitted in the Inline eXtensible Business Reporting Language (Inline XBRL), rather than the proposed N–CR-specific XML. As with N–CR-specific XML, Inline XBRL is a structured data language and would provide similar benefits to investors (*e.g.,* facilitating analysis of the event-related disclosures reported by money market funds on Form N–CR and thereby providing more transparency into potential risks associated with money market funds). From a filer compliance perspective, money market funds have experience complying with Inline XBRL compliance requirements, because they are required to tag prospectus risk/return summary disclosures on Form N–1A in Inline XBRL. This existing experience would counter the incremental implementation cost of complying with an Inline XBRL requirement under the alternative.[427]

However, unlike N–CR-specific XML, which the Commission would create specifically for Form N–CR submissions on EDGAR, Inline XBRL is an existing data language that is maintained by a public standards setting body, and it is used for different disclosures across various Commission filings (and for uses outside of regulatory disclosures). Due to the number of individual transactions that might be reported as Form N–CR data and the constrained nature of the content of Form N–CR and the absence of a clear need for the N–CR disclosures to be used outside the Form N–CR context, the alternative to include an Inline XBRL requirement might result in formatting for human readability of tabular data within a web browser that provides no additional analytical insight. This would likely include more complexity than is called for by the disclosures on Form N–CR, thus potentially making the disclosures more burdensome to use for analysis and possibly muting the benefits to investors of a structured data requirement, compared to the proposed N–CR-specific XML requirement.

d. Alternatives to the Proposed Amendments to Form N–1A

The proposal could have required more information relative to the proposal about how affected money market funds implement swing pricing. Alternatively, the proposal could have required the disclosure of less information than proposed about when the fund swings the NAV. Expanding disclosure requirements relative to the proposal would help better inform investors about swing pricing practices of different funds and could help liquidity seeking investors make more efficient capital allocation decisions. Similarly, alternatives proposing less

[427] For example, registered open-end management investment companies (including money market funds) must tag their Form N–1A prospectus risk/return summary disclosures in Inline XBRL. *See* Instruction C.3.g to Form N–1A; 17 CFR 232.405(b)(2).

information about fund swing pricing practices and eliminating current website disclosures of daily fund flows would reduce the scope of the economic benefits and costs of the proposed amendments described above.

The proposed disclosures may inform investors about swing pricing that may be applied to their redemptions, while not being so granular as to incentivize strategic investor behavior. Importantly, the proposed swing pricing approach would involve fewer incentives for strategic behavior and runs, compared to the baseline redemption gates with a transparent liquidity trigger for two reasons. First, under the proposed swing pricing approach, strategic early redemptions are more likely to cause the fund to swing. Second, swinging the NAV benefits investors staying in the fund by recapturing the dilution costs that redeeming investors impose on the fund.

13. Capital Buffers

The PWG Report also discussed the alternative capital buffer requirement. For example, the proposal could have required that money market funds maintain a NAV buffer, or a specified amount of additional assets available to absorb daily fluctuations in the value of the fund's portfolio securities.[428] For example, one option would require that stable NAV money market funds have a risk-based NAV buffer of up to 1% to absorb day-to-day fluctuations in the value of the funds' portfolio securities. Floating NAV money market funds could reserve their NAV buffers to absorb fund losses under rare circumstances only, such as when a fund suffers a large drop in NAV or is closed. The required minimum size of a fund's NAV buffer could be determined based on the composition of the money market fund's portfolio, with specified buffer requirements for daily liquid assets, other weekly liquid assets, and all other assets.

Some commenters on the PWG Report expressed support of capital buffers, indicating that such a provision could provide some protection from losses, including the default of a major asset or certain market fluctuations, but would not by itself prevent all investor runs.[429] Another commenter stated that a capital buffer could enable money market funds to sustain broad losses without resorting to fire sales that further depress share values, and would also increase investor confidence about a fund's ability to withstand periods of market turmoil.[430] Similarly, some commenters supported capital buffers as a source of strength if redemptions or declining asset values began to affect a fund.[431] One commenter stated that a capital buffer is preferable to sponsor support or potential government backstops because investors would understand the scale and operation of the buffer in advance of its deployment.[432] One commenter stated that a capital buffer should be required if money market funds are provided access to Federal Reserve liquidity backstops.[433]

The alternative may have four primary benefits. First, it could preserve the stable share price of money market funds with stable NAV and could reduce NAV variability in floating NAV money market funds. Money market funds that are supported by a NAV buffer would be more resilient to redemptions and liquidity stress in their portfolios than money market funds without a buffer. This may reduce shareholders' incentive to redeem shares quickly in response to small losses or concerns about the liquidity of the money market fund portfolio, particularly during periods of severe liquidity stress.

Second, a NAV buffer would require money market funds to provide explicit capital support rather than the implicit and uncertain support that is permitted under the current regulatory baseline. This would require funds to internalize some of the cost of the discretionary capital support sometimes provided to money market funds and to define in advance how losses will be allocated. In addition, a NAV buffer could reduce fund managers' incentives to take risk beyond what is desired by fund shareholders because investing in less risky securities reduces the probability of buffer depletion.

Third, a NAV buffer may also provide counter-cyclical capital to the money market fund industry. Once a buffer is funded it remains in place regardless of redemption activity. With a buffer, redemptions increase the relative size of the buffer because the same dollar buffer now supports fewer assets. The NAV buffer strengthens the ability of the fund to absorb further losses, reducing investors' incentive to redeem shares.

Fourth, by reducing the NAV variability in money market funds, a NAV buffer may facilitate and protect capital formation in short-term financing markets during periods of modest stress. To the degree that funds may avoid trading when markets are stressed, they may contribute to further illiquidity in short-term funding markets. A NAV buffer could enable funds to absorb small losses and thus could reduce this tendency. Thus, by adding resiliency to money market funds and enhancing their ability to absorb losses, a NAV buffer may benefit capital formation in the long term. A more stable money market fund industry may produce more stable short-term funding markets, which could provide more reliability as to the demand for short-term credit to the economy.

The alternative may involve both direct and indirect costs. In terms of direct costs, capital buffer requirements may be challenging to design and administer.[434] From the standpoint of design of capital buffers, calibrating the appropriate size of the buffer as well as establishing the parameters for when a floating NAV fund should use its NAV buffer could present operational and implementation difficulties and, if not done effectively, could contribute to self-fulfilling runs on funds experiencing large redemptions. From the standpoint of administering capital buffers, floating NAV funds would need to establish policies and procedures around the use of buffers, replenishing capital buffers when they are depleted and raising requisite financing, regulatory reporting, and investor disclosures about buffers, among other things. Depending on how a capital buffer is structured (*e.g.,* as sponsor provided capital or as a subordinated share class requiring shareholder approval), there may be other administrative, accounting, tax, and legal challenges and costs for fund sponsors and investors.

The alternative may also involve three sets of indirect costs. First, the alternative would result in opportunity costs associated with maintaining a NAV buffer.[435] Those contributing to

[428] *See, e.g.,* Lewis, Craig. April 6, 2015. ''Money Market Fund Capital Buffers,'' *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2687687*; *See also* Hanson, Samuel G., David S. Scharfstein, and Adi Sunderam. May 2014. ''An Evaluation of Money Market Fund Reform Proposals,'' *available at https://www.imf.org/external/np/seminars/eng/2013/mmi/pdf/Scharfstein-Hanson-Sunderam.pdf.*

[429] *See, e.g.,* CFA Comment Letter; Systemic Risk Council Comment Letter.

[430] *See, e.g.,* Better Markets Comment Letter (calculating that a sufficient buffer would need to be larger than the 3.9% of losses that money market funds have incurred in the past).

[431] *See, e.g.,* Prof. Zaring Comment Letter; Comment Letter of Fermat Capital Management, LLC (Mar. 2, 2021).

[432] *See, e.g.,* Better Markets Comment Letter.

[433] *See, e.g.,* Systemic Risk Council Comment Letter.

[434] *See, e.g.,* CCMC Comment Letter; Schwab Comment Letter; Northern Trust Comment Letter; Western Asset Comment Letter; Fidelity Comment Letter; State Street Comment Letter; GARP Risk Institute Comment Letter.

[435] Some commenters noted that it would take a substantial amount of time to raise a capital buffer

the buffer would deploy valuable scarce resources to maintain a NAV buffer rather than being able to use the funds elsewhere. Estimates of these opportunity costs are not possible because the relevant data is not currently available to the Commission. Second, entities providing capital for the NAV buffer, such as the fund sponsor, would expect to be paid a return that sets the market value of the buffer equal to the amount of the capital contribution. Since a NAV buffer is designed to absorb the same amount of risk regardless of its size, the promised yield, or cost of the buffer, increases with the relative amount of risk it is expected to absorb (also known as a leverage effect).[436] Third, money market funds with buffers may avoid holding riskier short-term debt securities (like commercial paper) and instead hold a higher amount of low yielding investments like cash, Treasury securities, or Treasury repos. This could lead money market funds to hold more conservative portfolios than investors may prefer, given tradeoffs between principal stability, liquidity, and yield. Moreover, the costs of establishing and maintaining a capital buffer would decrease returns to fund investors.[437] The increased costs and decreased returns of a capital buffer requirement may decrease the size of the money market fund sector, which would affect short-term funding markets, and could lead to increased industry concentration.[438] Moreover, this may alter competition in the money market fund industry as capital buffer requirements may be easier to comply with for bank-sponsored funds, funds that are members of large fund families, and funds that have a large parent.

Importantly, capital buffers may not have prevented the liquidity stresses that arose in March 2020.[439] A NAV buffer does not protect shareholders completely from the possibility of heightened rapid redemption activity during periods of market stress, particularly in periods where the buffer is at risk of depletion, such as during March 2020. As the buffer becomes impaired (or if shareholders believe the fund may suffer a loss that exceeds the size of its NAV buffer), shareholders have an incentive to redeem shares quickly because, once the buffer fails, and shareholders will experience sudden losses. At the same time, capital buffers could lead some investors to believe that their investments carry no risk, which may influence investor allocations and adversely impact allocative efficiency. Moreover, capital buffers may not have the same benefits for investment products such as money market funds, where the investor bears the risk of loss, as they do for banks.

14. Minimum Balance at Risk

Another alternative discussed in the PWG Report is minimum balance at risk. Specifically, the proposal could have required that a portion of each shareholder's recent balance in a money market fund be available for redemption only with a time delay. Under the alternative, all shareholders could redeem most of their holdings immediately without being restricted by the minimum balance at risk. This alternative also could include a requirement to put a portion of redeeming investors' holdback shares first in line to absorb losses that occur during the holdback period. A floating NAV fund could be required to use a minimum balance at risk mechanism to allocate losses only under certain rare circumstances, such as when the fund has a large drop in NAV or is closed.

Such an alternative could provide some benefits to money market funds. First, it would force redeeming shareholders to pay for the cost of liquidity during periods of severe market stress when liquidity is particularly costly. Such a requirement could create an incentive against shareholders participating in a run on a fund facing potential losses of certain sizes because shareholders will incur greater losses if they redeem.[440]

Second, it would allocate liquidity costs to investors demanding liquidity when the fund itself is under severe stress. This would be accomplished primarily by making redeeming shareholders bear first losses when the fund first depletes its buffer and then the fund's value falls below its stable share price within 30 days after their redemption. Redeeming shareholders subject to the holdback are the ones whose redemptions may have contributed to fund losses if securities are sold at fire sale prices to satisfy those redemptions. If the fund sells assets to meet redemptions, the costs of doing so would be incurred while the redeeming investor is still in the fund because of the delay in redeeming holdback shares.

Third, the alternative would provide the fund with a period of time to obtain cash to satisfy the holdback portion of a shareholder's redemption. This may give the fund time for distressed securities to recover when, for example, the market has acquired additional information about the ability of the issuer to make payment upon maturity. The alternative would provide time for potential losses in fund portfolios to be avoided since distressed securities could trade at a heavy discount in the market but may ultimately pay in full at maturity.

Implementing minimum balance at risk could involve operational challenges and direct implementation costs. The alternative would involve costs to convert existing shares or issue new holdback and subordinated holdback shares, changes to systems that would allow record-keepers to account for and track the minimum balance at risk and allocation of unrestricted, holdback or subordinated holdback shares in shareholder accounts, and systems to calculate and reset average account balances and

by retaining fund earnings. *See e.g.,* ICI Comment Letter I; Federated Hermes Comment Letter I (noting also that the issuance of a subordinated class of shares would go against the principles of the Investment Company Act that limit the use of leverage and the issuance of multiple classes of shares). One commenter proposed that a capital buffer be financed through the issuance of subordinated shares that would absorb losses before ordinary shareholders. *See* Prof. Hanson et al. Comment Letter (proposing a share class of approximately 3–4% of assets, with an estimated reduction in yield to ordinary shareholders of approximately 0.05%). Another commenter supported the development of contingent financing facilities to be provided by non-bank private investors. *See* Fermat Capital Comment Letter. Other commenters stated that the addition of a subordinated class of shares would add complexity to the industry and disproportionately affect smaller funds and new entrants. *See also* State Street Comment Letter (stating ''we understand this proposal was considered during previous rounds of reform, but it was the SEC itself that questioned whether this would be a meaningful or effective solution'').

[436] The leverage effect reflects the concept that higher leverage levels induce an equity holder to demand higher returns to compensate for the higher risk levels.

[437] *See, e.g.,* SIFMA AMG Comment Letter; CCMC Comment Letter; Northern Trust Comment Letter; Fidelity Comment Letter; Federated Hermes I Comment Letter; CCMR Comment Letter.

[438] *See, e.g.,* SIFMA AMG Comment Letter; ICI I Comment Letter (stating that requiring advisers to take a first-loss position would be a radical departure from the current role that fund advisers play under the federal securities laws); Western Asset Comment Letter; Fidelity Comment Letter; JP Morgan Comment Letter; Institute of International Finance Comment Letter; BlackRock Comment Letter; GARP Risk Institute Comment Letter; CCMR Comment Letter.

[439] *See, e.g.,* SIFMA AMG Comment Letter; Northern Trust Comment Letter; Fidelity Comment Letter; State Street Comment Letter; CCMR Comment Letter (stating that capital buffers are intended to reduce credit risk for investors, but the redemptions from money market funds in March 2020 were not driven by credit risk). *See also* Americans for Financial Reform Comment Letter (expressing some support for a capital buffer but stating that a capital buffer alone would not appear sufficient to absorb losses associated with the investor redemptions in March 2020).

[440] *See, e.g.,* Americans for Financial Reform Comment Letter; CFA Comment Letter; Robert Rutkowski Comment Letter (support as an alternative to swing pricing).

restrict redemptions of applicable shares.[441] These costs could vary significantly among funds depending on a variety of factors. In addition, funds subject to a minimum balance at risk may have to amend or adopt new governing documents to issue different classes of shares with different rights: Unrestricted shares, holdback shares, and subordinated holdback shares. The costs to amend governing documents would vary based on the jurisdiction in which the fund is organized and the amendment processes enumerated in the fund's governing documents, including whether board or shareholder approval is necessary. The costs of obtaining shareholder approval, amending governing documents, or changing domicile would depend on a number of factors, including the size and the number of shareholders of the fund.

In addition, this alternative would give rise to a number of indirect costs. First, the alternative may have different and unequal effects on investors in stable NAV and floating NAV money market funds. During the holdback period, investors in a stable NAV fund would only experience losses if the fund breaks the buck. Investors in a floating NAV fund, however, are always exposed to changes in the fund's NAV and would continue to be exposed to such risk for any shares held back. These differential effects could reduce investor demand for floating NAV money market funds.

Second, under the MBR alternative, there would still be an incentive to redeem in times of fund and market stress. The alternative could force shareholders that redeem more than a certain percent of their assets to pay for any losses, if incurred, on the entire portfolio on a ratable basis. The contingent nature of the way losses are distributed among shareholders forces early redeeming investors to bear the losses they are trying to avoid. Money market funds may choose to meet redemptions by selling assets that are the most liquid and have the smallest capital losses. Once a fund exhausts its supply of liquid assets, it may sell less liquid assets to meet redemption requests, possibly at a loss. If in fact assets are sold at a loss, the value of the fund's shares could be impaired, motivating shareholders to be the first to leave.

Third, minimum balance at risk may reduce the utility of money market funds for investors.[442] Many current investors who value liquidity in money market funds may shift their investment to other short-term investments that offer higher yields or fewer restrictions on redemptions.[443] A reduction in the number of money market funds and/or the amount of money market fund assets under management as a result of any further money market fund reforms would have a greater negative impact on money market fund sponsors whose fund groups consist primarily of money market funds, than on sponsors that offer a more diversified range of mutual funds or engage in other financial activities (*e.g.,* brokerage). Given that one of the largest money market funds' commercial paper exposures is to issuances by financial institutions, a reduction in the demand of money market instruments may have an impact on the ability of financial institutions to issue commercial paper.

Fourth, the alternative may not have addressed the liquidity stresses that occurred in March 2020.[444] The minimum balance at risk alternative generally impairs the liquidity of money market fund investments. To the degree that many investor redemptions in March 2020 were driven by exogenous liquidity needs (arising out of the Covid–19 pandemic), investors would still have strong incentives to redeem assets they could in order access liquidity.

15. Liquidity Exchange Bank Membership

The PWG Report also discussed an alternative requiring prime and tax-exempt money market funds to be members of a private liquidity exchange bank (''LEB''). The LEB would be a chartered bank that would provide a liquidity backstop during periods of market stress. Money market fund members and their sponsors would capitalize the LEB through initial contributions and ongoing commitment fees, for example. During times of market stress, the LEB would purchase eligible assets from money market funds that need cash, up to a maximum amount per fund. The intent of the LEB would be to diminish investors' incentive to redeem in times of market stress while having the benefit of pooling liquidity resources rather than requiring each money market fund to hold higher levels of liquidity separately.

This alternative, as well as broader industry-wide insurance programs, could mitigate the risk of liquidity runs in money market funds and their detrimental impacts on investors and capital formation.[445] The alternative could replace money market funds' historical reliance on discretionary sponsor support, which has covered capital losses in money market funds in the past but, as discussed above, also contributes to these funds' vulnerability to liquidity runs. One commenter suggested that some sort of collective emergency insurance fund would be helpful to reduce the moral hazard of funds that may be reliant on future Federal Reserve facilities in times of market stress.[446]

Several commenters on the PWG Report opposed an LEB option for money market funds.[447] These commenters expressed concern that the establishment and continued funding of an LEB for prime and tax-exempt money market funds would be operationally complex and impractical.[448] Further, commenters suggested that a significant amount of capital would be necessary to create a meaningful liquidity backstop for money market funds and that such costs would be burdensome for sponsors and investors. Commenters suggested that if LEB membership were required, prime and tax-exempt money market funds could no longer exist in a manner that is attractive to investors due to increased fees and, as a result, advisers would simply stop sponsoring such products.[449] One commenter pointed out that even a well-capitalized LEB

[441] *See, e.g.,* SIFMA AMG Comment Letter; Western Asset Comment Letter; Fidelity Comment Letter; ICI Comment Letter I; JP Morgan Comment Letter; BlackRock Comment Letter.

[442] *See, e.g.,* SIFMA AMG Comment Letter; Western Asset Comment Letter; Fidelity Comment Letter; ICI I Comment Letter; Federated Hermes I Comment Letter; Healthy Markets Association Comment Letter.

[443] *See, e.g.,* SIFMA AMG Comment Letter; Western Asset Comment Letter; Fidelity Comment Letter; ICI I Comment Letter; JP Morgan Comment Letter; State Street Comment Letter; Healthy Markets Association Comment Letter; mCD IP Comment Letter.

[444] *See, e.g.,* CCMC Comment Letter; SIFMA AMG Comment Letter; ICI I Comment Letter; Fidelity Comment Letter.

[445] *See, e.g.,* James Setterlund Comment Letter; Prof. Zaring Comment Letter; Systemic Risk Council Comment Letter.

[446] *See* James Setterlund Comment Letter.

[447] *See, e.g.,* SIFMA AMG Comment Letter; ICI Comment Letter I; Fidelity Comment Letter; Western Asset Comment Letter.

[448] *See* ICI Comment Letter I (stating that ''[o]ver ten years ago, ICI, with assistance from its members, outside counsel, and consultants, spent about 18 months developing a preliminary framework for a private liquidity facility, including how it could be structured, capitalized, governed, and operated. There were many drawbacks, limitations, and challenges to creating such a facility that we described in our framework and that are noted in the PWG Report. Each of these impediments remains today''); *see also* State Street Comment Letter (stating ''we understand this proposal was considered during previous rounds of reform, but it was the SEC itself that questioned whether this would be a meaningful or effective solution'').

[449] SIFMA AMG Comment Letter; ICI Comment Letter I; Western Asset Comment Letter.

would struggle to absorb an adequate level of assets during the March 2020 downturn.[450]

Moreover, some commenters also expressed concern that an LEB that does not have sufficient liquidity would risk a run by causing investor alarm, similar to how redemption behavior increased in March 2020 when a fund's level of weekly liquid assets neared 30%.[451] Some commenters also suggested that the establishment of a chartered LEB would introduce complex banking regulatory issues and inherent conflicts of interest.[452] Further, commenters expressed that any reform that involves pooling liquidity resources that are shared by all members could create moral hazard concerns by forcing more responsible funds that invest in safer assets to bear the costs of supporting less responsible funds.[453] Lastly, commenters suggested that to be viable, the LEB would need access to the Federal Reserve discount window.[454]

This alternative may not significantly reduce the contagion effects from heavy redemptions at money market funds without undue costs. Membership in the LEB has the potential to create moral hazard and encourage excessive risk-taking by money market funds, given the difficulties and costs involved in creating effective risk-based pricing for insurance and additional regulatory structure to offset this incentive. If the alternative actually increases moral hazard and decreases corresponding market discipline, it may in fact increase rather than decrease money market funds' susceptibility to liquidity runs. These incentives may be countered by imposing a very costly regulatory structure and risk-based pricing system; however, related costs are likely to be passed along to investors and may reduce the attractiveness of money market funds relative to bank products and other cash management tools. Finally, it may be difficult to create private insurance at an appropriate cost and of sufficient capacity for a several trillion-dollar industry that tends to have highly correlated tail risk.

E. Effects on Efficiency, Competition, and Capital Formation

The proposed amendments are intended to reduce run risk, mitigate the liquidity externalities transacting investors impose on non-transacting investors, and enhance the resilience of money market funds. To the degree that the proposal would increase the resilience of money market funds, it may enhance the availability of wholesale funding liquidity to market participants and enhance their ability to raise capital, particularly during severe stress. The proposed amendments may also reduce the probability that runs would result in future government interventions, inform investors about liquidity risks of their money market fund investments, and enhance the ability of investors to optimize their portfolio allocations.

The proposal may enhance the efficiency of liquidity provision. Specifically, money market funds and issuers of short-term debt that money market funds hold benefit from perceived government backstops and the safety and soundness of the financial system. When the liquidity of underlying assets in money market fund portfolios is impaired, investors benefit from selling money market fund shares before or instead of selling assets that funds hold. Thus, in times of market stress, liquidity demand may be directed to money market funds even though the relative cost of liquidity in money market funds may be greater, resulting in inefficient provision of liquidity. While the proposal would not result in money market funds fully internalizing the costs of investing in illiquid assets, to the degree that the proposal would reduce the need for future implicit government backstops in times of stress, the proposal may result in more efficient provision of liquidity.

The proposed disclosure requirements are expected to enhance informational efficiency. To the degree that some investors may currently be uninformed about liquidity risks of money market fund investments, the proposed swing pricing and disclosure requirements may increase transparency about liquidity costs transacting investors impose on remaining fund investors and liquidity risks in money market funds. While many investors may use money market funds as cash equivalents, money market funds use capital subject to daily or intraday redemptions to invest in portfolios of risky assets. This gives rise to liquidity risk and liquidity externalities between transacting and non-transacting investors, as discussed throughout the release. The possibility that a fund's NAV may swing as a result of net redemptions, as well as the proposed disclosure requirements may help inform investors about the liquidity risks inherent in money market funds and liquidity costs of redemptions, particularly during times of stress. To the degree that greater transparency about liquidity risk of money market funds may lead some risk averse investors to use other instruments, such as banking products, in lieu of money market funds for cash management, allocative efficiency may increase.

The proposal may have two groups of competitive effects. First, proposed increases in liquidity requirements may affect competition among prime money market funds. As discussed in detail in Section III.C.2, many affected funds already have liquidity levels that would meet or exceed the proposed minimum daily and weekly liquid asset thresholds. However, other funds would have to rebalance their portfolios to come into compliance with the proposed amendments, which may reduce the yields they are able to offer investors. The proposed amendments may, thus improve the competitive standing of funds that currently have higher levels of daily and weekly liquidity relative to funds that currently do not and may, thus, be able to offer higher yields to investors.

Second, the proposed amendments may influence the competitive standing of prime money market funds relative to government money market funds. The proposed elimination of gates and fees and swing pricing may reduce the risk of runs on prime money market funds and may protect the value of investments of non-transacting shareholders. However, swing pricing may increase the variability of prime money market funds net asset values, while higher liquidity requirements may reduce the yields they are able to offer to investors. This may reduce their attractiveness to investors and may result in a greater reallocation of capital from prime to government funds, bank deposit accounts, insurance company

[450] JP Morgan Comment Letter.

[451] SIFMA AMG Comment Letter; Fidelity Comment Letter.

[452] SIFMA AMG Comment Letter; Fidelity Comment Letter; Institute of International Finance Comment Letter (noting that ''[t]he Federal Reserve's Section 23A restrictions on affiliate transactions would impose significant constraints on LEB support to MMFs absent a clear exemption.''); *see also* mCP (stating that ''unless an exemption from a normal bank regulations were granted, that would put the LEB in clear breach of the Liquidity Coverage Ratio . . .'').

[453] SIFMA AMG Comment Letter; Fidelity Comment Letter; Western Asset Comment Letter.

[454] *See, e.g.,* JP Morgan Comment Letter; Fidelity Comment Letter; SIFMA AMG Comment Letter; Institute of International Finance Comment Letter. As the Commission recognized in 2014, ''access to the discount window would raise complicated policy considerations and likely would require legislation. In addition, such a facility would not protect money market funds from capital losses triggered by credit events as the facility would purchase securities at the prevailing market price.'' *See* 2014 Adopting Release, *supra* footnote 12, at paragraph accompanying n.2118. We believe that an LEB without such additional loss protection may not sufficiently prevent widespread liquidity induced runs on money market funds similar to those experienced in March 2020.

separate accounts, and other types of liquid vehicles.

The proposed increases in minimum liquidity thresholds may reduce access to and increase costs of raising capital for some issuers of short-term debt, thereby potentially negatively affecting capital formation. Moreover, to the degree that raising liquidity thresholds may reduce money market fund yields and to the extent that swing pricing may increase uncertainty about investors' redemption costs, the proposal may reduce the viability of prime money market funds as an asset class. This reallocation need not be inefficient since government money market funds or banking products may be more suitable for cash management by liquidity risk averse investors. Moreover, banking entities insured by the FDIC pay deposit insurance assessments, whereas money market funds do not internalize any portion of government interventions or externalities they impose on other investors in the same asset classes.

Nevertheless, potential decreases in the size of the prime money market fund sector may have adverse follow-on effects on capital formation and the availability of wholesale funding liquidity to issuers and institutions seeking to arbitrage mispricings across markets. Issuers may respond to such changes by shifting their commercial paper and certificate of deposit issuance toward longer maturity instruments, which may reduce their exposure to rollover risk.

These aspects of the proposal may be borne disproportionately by global or foreign banking organizations that rely on money market funds for dollar funding. Specifically, academic research has explored the effects of outflows from prime money market funds into government money market funds around the 2014 money market fund reforms on business models and lending activities of foreign banking organizations in the U.S. To the degree that the proposed amendments would result in further outflows from prime money market funds, banking organizations reliant on unsecured funding from money market funds may reduce arbitrage positions and investments in illiquid assets, rather than reducing lending.[455] However, reduced wholesale dollar funding from money market funds may also lead to a reduction in capital formation through dollar lending by affected banks, which may reduce the dollar borrowing ability of firms reliant on affected banks.[456]

Amendments related to potential negative interest rates may increase informational and allocative efficiency. In the event gross fund yields turn negative, the proposal would prohibit the use of reverse share distribution mechanisms, and would require stable NAV funds to float the NAV. This may enhance transparency of fund yields to investors, which may enhance informational and allocative efficiency in stable NAV funds. However, to the degree that stable NAV fund investors may use such accounts for sweep accounting or for cash management, floating the NAV under such circumstances may increase price variability of and decrease investor interest in affected retail or government money market funds. As a result, investors may move their capital to bank accounts or other cash alternatives, which may reduce the size of the retail and government money market fund sector. Since money market funds play an essential role in the provision of wholesale funding liquidity and since negative interest rates may be most likely during severe macroeconomic stress, the proposal may lead to a negative shock to wholesale funding liquidity and capital formation during peak macroeconomic stress.

The proposed requirement that money market funds determine that their intermediaries have the capacity to process the transactions at floating NAV and the related recordkeeping requirements may affect competition among funds and intermediaries. Specifically, intermediaries that are currently unable to process stable NAV fund shares at floating NAV prices would have to update their transaction processing systems or lose the ability to process transactions with stable NAV money market funds. Such costs are more easily borne by larger intermediary complexes, which are also more likely to be processing both stable and floating NAV fund transactions and be already equipped for the potential transition. This may place smaller intermediaries processing transactions in stable NAV funds at a competitive disadvantage relative to larger intermediaries. In addition, funds heavily reliant for their distribution on smaller intermediaries that are not currently equipped to process transactions at a floating NAV may experience more significant disruptions to their distribution networks. Such funds are more likely to bear higher compliance costs of the proposal and may lose investor capital to other funds that rely on larger intermediaries that are already in compliance with the proposed amendments. Notably, such reallocation need not be inefficient if larger intermediaries have superior processing systems and, due to economies of scale and scope, are able to process transactions for a variety of funds under different market conditions. However, it may place funds reliant on less technologically advanced intermediaries for their distribution at a competitive disadvantage relative to funds using better equipped intermediaries. It may also disadvantage smaller fund complexes generally as they may have fewer economies of scale and scope.

The proposed amendments related to the methods of calculation of WAM and WAL may increase consistency and comparability of disclosures by money market funds in data reported to the Commission and provided on fund websites. The amendments, therefore, may reduce informational asymmetries between funds and fund investors about interest rate and liquidity risk exposures across fund portfolios. To the degree that consistency and comparability of WAM and WAL information may inform investors and may influence their capital allocation decisions, the proposed amendments may improve allocative efficiency. The proposed amendments related to the calculation of WAM and WAL are not expected to affect competition and capital formation.

F. Request for Comment

We request comment on all aspects of the economic analysis of the proposed amendments. To the extent possible, we request that commenters provide supporting data and analysis with respect to the benefits, costs, and effects on competition, efficiency, and capital formation of adopting the proposed amendments or any reasonable alternatives. In particular, we ask commenters to consider the following questions:

143. What additional qualitative or quantitative information should be considered as part of the baseline for the economic analysis of these amendments? What fraction of institutional prime and institutional tax-exempt funds currently strike their NAV at the bid price of securities?

144. Are the costs and benefits of proposed amendments accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits

[455] *See, e.g.,* Anderson, Alyssa, Wenxin Du, Bernd Schlusche. 2019. ''Money Market Fund Reform and Arbitrage Capital.'' Working Paper. *See also* Thomas Flanagan. 2020. ''Funding Stability and Bank Liquidity.'' Working Paper.

[456] *See, e.g.,* Ivashina, Victoria, David Scharfstein, and Jeremy Stein, 2015. ''Dollar Funding and the Lending Behavior of Global Banks.'' Quarterly Journal of Economics 130(3): 1241–1281.

should be taken into account? If possible, please offer ways of estimating these costs and benefits. What additional considerations can be used to estimate the costs and benefits of the proposed amendments?

145. Are the costs and benefits of proposed swing pricing amendments accurately characterized? If not, why not? How many institutional prime and institutional tax exempt money market funds already impose order cut-off times? Are the costs of funds doing so accurately characterized? What, if any, other costs or benefits should be taken into account? If possible, please offer ways of estimating these costs and benefits.

146. Are the costs and benefits of proposed amendments related to potential negative interest rates accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account? If possible, please offer ways of estimating these costs and benefits. What additional considerations can be used to estimate the costs and benefits of the proposed amendments?

147. Are the effects on competition, efficiency, and capital formation arising from the proposed amendments accurately characterized? If not, why not?

148. Are the economic effects of the above alternatives accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account?

149. Are the economic effects of the dynamic liquidity fee alternative to the proposed swing pricing requirement accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account?

150. Are the economic effects of the alternative approaches to implementing swing pricing adequately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account?

151. Are the economic effects of the sponsor support alternative accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account?

152. Are the economic effects of the minimum balance at risk alternative accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account?

153. Are the economic effects of the Inline XBRL alternative for Form N–CR accurately characterized? If not, why not? Should any of the costs or benefits be modified? What, if any, other costs or benefits should be taken into account?

154. Are there other reasonable alternatives to the proposed amendments that should be considered? What are the costs, benefits, and effects on competition, efficiency, and capital formation of any other alternatives?

155. Are there data sources or data sets that can help refine the estimates of the costs and benefits associated with the proposed amendments? If so, please identify them.

IV. Paperwork Reduction Act

A. Introduction

The proposed amendments to rule 2a–7 rule 31a–2, and Forms N–1A, N–CR, and N–MFP contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[457] We are submitting the proposed collections of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[458] The titles for the existing collections of information are: (1) ''Rule 2a–7 under the Investment Company Act of 1940, Money market funds'' (OMB Control No. 3235–0268); (2) ''Rule 31a–2: Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies'' (OMB Control No. 3235–0179; (3) ''Form N–1A under the Securities Act of 1933 and under the Investment Company Act of 1940, registration statement of open-end management investment companies'' (OMB Control No. 3235–0307); (4) ''Rule 30b1–8 under the Investment Company Act of 1940, current report for money market funds and Form N–CR, current report, money market fund material events'' (OMB Control No. 3235–0705); and (5) ''Rule 30b1–7 under the Investment Company Act of 1940, monthly report for money market funds, and Form N–MFP, monthly schedule of portfolio holdings of money market funds'' (OMB Control No. 3235–0657).

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. We discuss below the collection of information burdens associated with proposed amendments to rules 2a–7 and 31a–2 as well as to Forms N–1A, N–CR, and N–MFP.

[457] 44 U.S.C. 3501–3520.

[458] 44 U.S.C. 3507(d); 5 CFR 1320.11.

B. Rule 2a–7

Certain provisions of our proposed rule would affect the baseline collection of information requirements of rule 2a–7 Several of the amendments create new collection of information requirements or modify existing ones. These amendments include: (1) Removal of fee and gate provisions from rule 2a–7 and the associated board determinations of whether to impose a fee or gate; (2) new provisions requiring institutional prime and institutional tax-exempt money market funds to establish and implement swing pricing policies and procedures and deliver a board report no less frequently than annually; and (3) new provisions requiring government and retail money market funds to maintain and keep current records identifying the financial intermediaries the fund has determined have the capacity to transact at non-stable prices per share and the intermediaries for which the fund was unable to make this determination. The retention period with respect to the swing pricing policies and procedures, board reports, and financial intermediary determinations is six years, the first two years in an easily accessible place.

The respondents to these collections of information will be money market funds. We estimate that there are 318 money market funds subject to rule 2a–7, although the proposed new collections of information would each apply to certain subsets of money market funds, as reflected in the below table.[459] The new collections of information are mandatory for the identified types of money market funds that rely on rule 2a–7. The proposed amendments are designed to enable Commission staff in its examinations of money market funds to determine compliance with the rule. To the extent the Commission receives confidential information pursuant to the collections of information, such information will be kept confidential, subject to the provisions of applicable law.[460]

In our most recent Paperwork Reduction Act submission for rule 2a–7, we estimated the annual aggregate compliance burden to comply with the collection of information requirement of

[459] Based on Form N–MFP filings, there were 318 money market funds as of July 2021.

[460] *See, e.g.,* 5 U.S.C. 552. Exemption 4 of the Freedom of Information Act provides an exemption for trade secrets and commercial or financial information obtained from a person and privileged or confidential. Exemption 8 of the Freedom of Information Act provides an exemption for matters that are contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

rule 2a–7 is 337,328 burden hours with an internal cost burden of $92,875,630 and an external cost burden estimate of $38,100,454.[461]

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to rule 2a–7.

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Table 7: Proposed Burden Estimates for Rule 2a-7

	Internal initial burden hours	Internal annual burden hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED ESTIMATES						
Removal of fee and gate provisions	0 hours	-7 hours	×	$1,562[3]	-$10,935	
Number of funds		× 2[4]			x 2[4]	
Total annual burden for removal of fee and gate provisions (I)		-14 hours			-$21,870	
Swing pricing policies and procedures	54 hours[5]	20 hours[6]	x	$382[7]	$7,640	
		2 hours		$4,470[8]	$8,940	
Swing pricing board reporting		4 hours[9]	x	$2,419[10]	$9,676	
Swing pricing recordkeeping		4 hours[11]	x	$113[12]	$452	
Number of fund complexes		× 25[13]			x 25[13]	
Total annual burden for swing pricing requirement (II)		750 hours			$667,700	
Recordkeeping related to financial intermediary determinations	3 hours	2 hours[14]		$110[15]	$220	
Number of funds		× 265[16]			x 265[16]	
Total annual burden for determinations related to financial intermediaries (III)		530 hours			$58,300	
Total new annual burden (I +II + III)		1,266 hours			$704,130	
Current burden estimates		337,328 hours			$92,875,630	$38,100,454
Revised burden estimates		338,594 hours			$93,579,760	$38,100,454

Notes:

1. This estimate includes the initial burden estimates amortized over a three-year period.

2. The Commission's estimates of the relevant wage rates (with the exception of the board of directors) are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013. The estimated wage figures are modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. These PRA estimates assume that the same types of professionals would be involved in the proposed requirements that we believe otherwise would be involved in complying with other information collection requirements in rule 2a-7.

[461] The most recent rule 2a–7 PRA submission was approved in 2019 (OMB Control No. 3235–0268).

3. Represents the wage rate and burden hour allocations the Commission used in its most recent PRA submission. In that submission, the Commission estimated 5 hours for an attorney (at a rate of $401 per hour) and 2 hours for a board of 9 directors (at a rate of $4,465 per hour).

4. In its most recent PRA submission, the Commission estimated that 2 funds per year would have weekly liquid assets below 30% of total assets, which would require a board determination of whether to impose fees or gates. Because our proposal would remove the fee and gate provisions from the rule, we similarly propose to remove the burdens that have been allocated to these provisions.

5. We are estimating for the purpose of this analysis that each fund complex would incur a one-time average burden of 48 hours to document swing pricing policies and procedures, with 24 hours spent by a senior accountant and 24 hours spent by a chief compliance officer. Since a fund board approves the fund's swing pricing policies and procedures and reviews, no less frequently than annually, a written report that includes certain required elements, we estimate a one-time burden of 6 hours per fund complex associated with the fund board's review and approval of swing pricing policies and procedures.

6. We estimate that each fund complex will spend 4 hours each year, on average, to update swing pricing policies and procedures, with 2 hours spent by a senior accountant and 2 hours spent by a chief compliance officer.

7. Represents a blended wage rate of a senior accountant ($221 per hour) and a chief compliance officer ($542 per hour).

8. Represents an estimated cost per hour for an entire board of directors, assuming an average of 9 board members per board.

9. We estimate that each fund complex would spend 2 hours each year, on average, preparing the required written report to the board. We estimate an annual burden of 2 hours per fund complex associated with the fund board's review of the swing pricing administrator's report.

10. Represents a wage rate of a compliance attorney at $373 per hour and 2 hours for a board of 9 directors at a rate of $4,770 per hour.

11. We estimate that the burden is four hours per fund complex each year to retain the proposed swing pricing records, with 2 hours spent by a general clerk and 2 hours spent by a senior computer operator.

12. Represents a blended wage rate of general clerk ($64 per hour) and senior computer operator ($97 per hour).

13. Represents the number of fund complexes that have institutional prime and institutional tax-exempt funds as of July 2021, based on Form N-MFP data. We estimate the burdens related to swing pricing at the fund complex level because we believe funds in the same complex would experience certain efficiencies in developing and updating written policies and procedures and in board oversight of swing pricing.

14. We estimate that each fund complex would spend 2 hours each year, on average, making the required determinations whether fund intermediaries are capable of transacting in fund shares at other than a stable NAV, typically using a senior compliance examiner.

15. Represents a blended wage rate of general clerk ($64 per hour) and senior computer operator ($97 per hour).

16. Represents the number of government and retail money market funds as of July 2021, based on Form N-MFP data.

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C. Rule 31a–2

Section 31(a)(1) of the Investment Company Act requires registered investment companies and certain others to maintain and preserve records as prescribed by Commission rules. Rule 31a–1 specifies the books and records that must be maintained. Rule 31a–2 specifies the time periods that entities must retain certain books and records, including those required to be maintained under rule 31a–1. The retention of records, as required by rule 31a–2, is necessary to ensure access by Commission staff to material business and financial information about funds and certain related entities. This information will be used by the Commission staff to evaluate fund compliance with the Investment Company Act and regulations thereunder. We are proposing that certain money market funds retain books and records containing schedules evidencing and supporting each computation of an adjustment to net asset value of their shares based on swing pricing policies and procedures established and implemented pursuant to proposed rule 2a–7(c)(2). The respondents to these collections of information will be money market funds. The new collections of information are mandatory for the money market funds subject to rule 2a–7(c)(2). We estimate that there are 53 institutional prime and institutional tax-exempt money market funds that would be subject to the proposed collection of information requirements related to swing pricing. To the extent the Commission receives confidential information pursuant to the collections of information, such information will be kept confidential, subject to the provisions of applicable law.[462]

In our most recent Paperwork Reduction Act submission for rule 31a–2, we estimated the annual aggregate compliance burden to comply with the collection of information requirement of rule 31a–2 is 696,464 burden hours with an internal cost burden of $54,672,424 and an external cost burden estimate of $115,372,485.[463]

The table below summarizes our PRA annual burden estimates associated with the proposed amendments to rule 31a–2.

[462] *See id.*

[463] The most recent rule 31a–2 PRA submission was approved in 2020 (OMB Control No. 3235–0179).

Table 8: Proposed Burden Estimates for Rule 31a-2

	Internal annual burden hours	Wage rate[1]		Internal time cost	Annual external cost burden
PROPOSED ESTIMATES					
Annual burden associated with proposed swing pricing amendments for money market funds	1.5 hours	$64 (general clerk)	×	$96	$600
	1.5 hours	$97 (senior computer operator)	×	$146	
Number of funds	**x 53**			**x 53**	**x 53**
Total new annual burden	**159 hours**			**$12,826**	**$31,800**
Current Burden Estimates	**696,464 hours**			**$56,672,424**	**$115,372,485**
Revised Burden Estimates	**696,623**			**$56,685,250**	**$115,404,285**

Notes:
1. *See supra* Table 7, at note 2.

D. Form N–MFP

The proposed amendments to Form N–MFP would include additional data collection and certain technical improvements that will assist our monitoring and analysis of money market funds. We are proposing to increase the frequency of certain data points from weekly to daily, collect new information about securities that have been disposed of before maturity, collect new information about the composition and concentration of money market funds' shareholders, collect additional information and remove the ability for funds to aggregate certain required information about repurchase agreement transactions, as well as certain other information about the fund's portfolio securities (*e.g.,* the acquisition date for a security). We are also proposing amendments to improve identifying information about the fund, including changes to better identify different categories of government money market funds, changes to identify privately offered funds that are used for internal cash management purposes, and amendments to provide the name and other identifying information for the registrant, series, and class. The proposed amendments to Form N–MFP also include several changes to clarify current instructions or items.

The information collection requirements on Form N–MFP are designed to assist the Commission in analyzing the portfolio holdings of money market funds, and thereby augment our understanding of the risk characteristics of individual money market funds and money market funds as a group and industry trends. The proposed amendments enhance our oversight of money market funds and our ability to respond to market events. Preparing a report on Form N–MFP is mandatory for money market funds that rely on rule 2a–7, and responses to the information collections will not be kept confidential.

The respondents to these collections of information will be money market funds. The Commission estimates there are 318 money market funds that report information on Form N–MFP although certain components of the proposed new collections of information would apply to certain subsets of money market funds, as reflected in the below table. We estimate that 35% of money market funds (or 111 money market funds) license a software solution and file reports on Form N–MFP in house. We estimate that the remaining 65% of money market funds (or 207 money market funds) retain the services of a third party to provide data aggregation and validation services as part of the preparation and filing of reports on Form N–MFP on the fund's behalf. We understand that the required data in the proposed amendments to Form N–MFP generally are already maintained by money market funds pursuant to other regulatory requirements or in the ordinary course of business. Accordingly, for the purposes of our analysis, we do not believe that the proposed amendments add significant burden hours for filers of Form N–MFP.

In our most recent Paperwork Reduction Act submission for Form N–MFP, we estimated the annual aggregate compliance burden to comply with the collection of information requirement of Form N–MFP is 64,667 burden hours with an internal cost burden of $6,754,832 and an external cost burden estimate of $8,682,037.[464]

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–MFP.

BILLING CODE 8011–01–P

[464] This estimate is based on the last time the PRA submission for the rule's information collection was approved in 2019 (OMB Control No. 3235–0657).

Table 9: Proposed Burden Estimates for Form N-MFP

	Internal initial burden hours	Internal annual burden hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
PROPOSED ESTIMATES						
Reporting on disposed securities	3 hours	2 hours	×	$304[3]	$608	
Number of funds for disposed securities information[4]		× 64			x 64	
Total new annual burden for disposed securities information (I)		128 hours			$38,912	
Other proposed amendments	9 hours	7 hours		$304[2]	$2,128	$912
Number of funds[5]		× 318			x 318	x 318
Total new annual burden for Other proposed amendments (II)		2,226 hours			$676,704	$290,016[6]
Total new annual burden (I +II)		2,354 hours			$715,616	$290,016
Current burden estimates		64,667 hours			$6,754,832	$3,179,700
Revised burden estimates		67,021 hours			$7,470,448	$3,469,716

Notes:

1. This estimate includes the initial burden estimates amortized over a three-year period.

2. *See supra* Table 7, at note 2. These PRA estimates assume that the same types of professionals would be involved in the proposed reporting requirements that we believe otherwise would be involved in preparing and filing reports on Form N-MFP.

3. This represents a blended hourly rate of $304 for a Financial Reporting Manager ($297 per hour), Fund Senior Accountant ($221 per hour), Senior Database Administrator ($349 per hour), Senior Portfolio Manager ($336 per hour), and Compliance Manager ($316 per hour)). The blended hourly rate was calculated as ($297 + $221 + $349 + $336 + $316) / 5 = $304.

4. This reflects that our proposal requires that only prime money market funds report information about disposed securities on Form N-MFP. We estimate that there were 64 prime funds as of July 2021, based on Form N-MFP filings.

5. We estimate that there were 318 money market funds as of July 2021, based on Form N-MFP filings.

6. This estimate is based on the following information and calculations: (35% x $4,805 (the average cost to license a third-party software solution per year) = $1,681.75) + (65% x $11,440 (the average cost of retaining the services of a third-party vendor to prepare and file reports on Form N-MFP on the fund's behalf) = $7,436) = basis for existing external N-MFP filing costs. We estimate that the new N-MFP requirements will add an additional 10% costs (*e.g.*, ($1,681.75 + $7,436 = $9,117.75) x 10% = $912 per fund). $912 x 318 = $290,016

E. Form N–CR

The proposed amendments to Form N–CR would include the removal of the disclosure items related to fund suspensions of redemptions and liquidity fees. The proposal would require a fund to file a report when its investments are more than 50% below the minimum weekly liquid asset or daily liquid asset requirements. In addition, the proposal would require money market funds to file Form N–CR reports in a custom XML data language. The information collection requirements are designed to assist Commission staff in its oversight of money market funds and its ability to respond to market events. We estimate that there are 318 money market funds subject to Form N–CR reporting requirements, but a fund is required to file a report on Form N–CR only when a reportable event occurs.[465] Compliance with the disclosure requirements of Form N–CR is mandatory for money market funds that rely on rule 2a–7, and the responses to the disclosure requirements will not be kept confidential.

In our most recent Paperwork Reduction Act submission for Form N–CR, we estimated that we would receive, in the aggregate, an average of 6 reports filed on Form N–CR per year. We also estimated the annual aggregate compliance burden to comply with the collection of information requirement of Form N–CR is 51 burden hours with an internal cost burden of $19,839, and an external cost burden estimate of $6,111.[466]

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–CR. Our most recent Paperwork Reduction Act submission for Form N–CR based the burden estimates on the number of Form N–CR reports filed between 2018 and 2020, and no funds filed reports related to liquidity fees or suspensions of redemptions during that period (or at any other time). As a result, we do not believe that removing the items related to liquidity fees and suspensions of redemptions would affect the current burden estimates.

[465] Based on Form N–MFP filings, there were 318 money market funds as of July 2021.

[466] The most recent Form N–CR PRA submission was approved in 2021 (OMB Control No. 3235–0705).

Table 10: Proposed Burden Estimates for Form N-CR

	Internal initial burden hours	Internal annual burden hours		Wage rate[1]	Internal time costs
PROPOSED ESTIMATES					
Reporting of liquidity threshold events	0 hours	4.5 hours	×	$492 (legal professional)	$2,214
	0 hours	4 hours	×	$285 (financial professional)	$1,140
Total annual burden per response		**8.5 hours[2]**			**$3,354**
Number of responses		× 1			× 1
Estimated burden for reporting of liquidity threshold events (I)		**8.5 hours**			**$3,354**
Submission in a structured data language	0 hours	2 hours	×	$277 (programmer)	$554
Number of responses		× 7[3]			× 7[3]
Estimated burden for submission in a structured data format (II)		**14 hours**			**$3,878**
Total estimated burden (I+II)		**22.5**			**$7,232**
Current Burden Estimates		**51**			**$19,839**
Revised Burden Estimates		**73.5**			**$27,071**

Notes:

1. *See supra* Table 7, at note 2. These PRA estimates assume that the same types of professionals would be involved in the proposed reporting requirements that we believe otherwise would be involved in preparing and filing reports on Form N-CR. The financial professional category is the blended average hourly rate for a senior portfolio manager ($336), financial reporting manager ($297), and senior accountant ($221). The legal professional category is a blended average hourly rate for a deputy general counsel ($610) and compliance attorney ($373).

2. This estimated burden also includes notifying the board of liquidity threshold events, which will involve providing the same information within the same period as the Form N-CR report.

3. This estimate includes 6 reports filed per year in addition to the 1 estimated annual response resulting from the reporting of liquidity threshold events.

F. Form N–1A

The proposed amendments to Form N–1A would include a requirement for any money market fund that is not a government money market fund or a retail money market fund to provide swing pricing disclosures to investors, including an explanation of the fund's use of swing pricing and a general description of the effects of swing pricing on the fund's average annual total returns for the applicable period(s). The proposed amendments would additionally include a proposal to remove the current disclosures related to the imposition of liquidity fees and any suspension of redemptions. Compliance with the disclosure requirements of Form N–1A is mandatory for money market funds that rely on rule 2a–7, and the responses to the disclosure requirements will not be kept confidential.

The purpose of the information collection requirements on Form N–1A are to meet the filing and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The proposed amendments to Form N–1A are designed to provide investors with information about a fund's swing pricing policies and procedures and how swing pricing may affect an investor, which investors can use to inform their investment decisions.

The respondents to these collections of information will be money market funds. The Commission estimates there are 318 money market funds that are subject to Form N–1A, although the proposed new collections of information would apply to certain subsets of money market funds. The Commission estimates there are 53 money market funds that will provide swing pricing-related disclosures on Form N–1A. We estimate that 129 money market funds will remove the current disclosures related to the imposition of liquidity fees and any suspension of redemptions. Given the removal of the prior disclosure requirements, we do not believe that the proposed amendments add significant burden hours for filers of Form N–1A.

In our most recent Paperwork Reduction Act submission for Form N–1A, we estimated the annual aggregate burden to comply with the collection of information requirement of Form N–1A is 1,672,077 burden hours with an internal cost burden of $474,392,078, and an external cost burden estimate of $132,940,008.[467]

The table below summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N–1A.

[467] The most recent Form N–1A PRA submission was approved in 2019 (OMB Control No. 3235–0307).

Table 11: Proposed Burden Estimates for Form N-1A

	Internal initial burden hours	Internal annual burden hours[1]	Wage rate[2]	Internal time costs
PROPOSED ESTIMATES				
Swing pricing-related disclosure	**2 hours**	**1.67 hours[3]**	**$356[4]**	**$595**
Number of funds for swing pricing-related disclosure		× 53[5]		× 53[5]
Estimated burden for swing pricing-related disclosure (I)		**89 hours**		**$31,535**
Removal of liquidity fee and redemption gate-related disclosure		**-0.5 hours[6]**	**$356[4]**	**-$178**
Number of funds for removal of liquidity fee and redemption gate-related disclosure		× 129[7]		× 129
Estimated annual burden reduction for removal of fee and gate-related disclosure (II)		**-64.5 hours**		**-$22,962**
Total estimated burden (I-II)		**24.5**		**$8,573**
Current Burden Estimates		**1,672,077**		**$474,392,078**

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V. Initial Regulatory Flexibility Analysis

Section 3(a) of the Regulatory Flexibility Act of 1980[468] (''RFA'') requires the Commission to undertake an initial regulatory flexibility analysis (''IRFA'') of the proposed rule amendments on small entities unless the Commission certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[469] Pursuant to 5 U.S.C. 605(b), the Commission hereby certifies that the proposed amendments to rule 2a–7, rule 31a–2, and Forms N–MFP and N–CR under the Investment Company Act, and Form N–1A under the Investment Company Act and the Securities Act, would not, if adopted, have a significant economic impact on a substantial number of small entities.

We are proposing amendments to rule 2a–7 under the exemptive and rulemaking authority set forth in sections 6(c), 8(b), 22(c), and 38(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–6(c), 80a–8(b), 80a–22(c), 80a–37(a)]. The proposed amendments would remove the liquidity fee and redemption gate provisions in rule 2a–7 under the Act. The proposed amendments would further require institutional prime and tax-exempt money market funds to implement swing pricing policies and procedures to require redeeming investors to bear the costs of their decision to redeem. The proposed amendments to rule 2a–7 would increase the daily liquid asset and weekly liquid asset minimum liquidity requirements to 25% and 50%, respectively, to provide a more substantial buffer in the event of rapid redemptions. The proposed amendments would provide guidance and amend rule 2a–7 to address how money market funds with stable net asset values should handle a negative interest rate environment. Finally, the proposed amendments would specify the calculation method for weighted average maturity and weighted average life.

We are proposing amendments to rule 31a–2 under the authority set forth in section 31(a) of the Investment Company Act [15 U.S.C. 80a–30(a)]. The proposed amendments would require certain money market funds to maintain records related to swing pricing. In addition, we are proposing amendments to Forms N–MFP and N–CR under the Investment Company Act under the authority set forth in sections 8(b), 30(b), 31(a), and 38 of the Investment Company Act [15 U.S.C. 80a–8(b), 80a–29(b), 80a–30(a), 80a–37]. We propose amendments to Form N–1A under the Investment Company Act and the Securities Act, under the authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–24(a), 80a–24(g), 80a–29, and 80a–37]. These proposed amendments would update the reporting requirements on Forms N–MFP and N–CR to improve the availability of information about money market funds, as well as make certain conforming changes to Form N–1A to reflect our proposed changes to the regulatory framework for these funds.

Based on information in filings submitted to the Commission, we believe that only one money market fund is a small entity.[470] For this reason, the Commission believes the proposed amendments to rule 2a–7, rule 31a–2, Forms N–MFP, N–CR, and N–1A, would not, if adopted, have a significant economic impact on a substantial number of small entities.

We encourage written comments regarding this certification. We solicit comment as to whether the proposed amendments to rule 2a–7, rule 31a–2, Forms N–MFP, N–CR, and N–1A could have an effect on small entities that has not been considered. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of such impact.

VI. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of

[468] 5 U.S.C. 603(a).

[469] 5 U.S.C. 605(b).

[470] Under the Investment Company Act, an investment company is considered a small business or small organization if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year. *See* 17 CFR 270.0–10.

1996, or ''SBREFA,''[471] we must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers or individual industries; or (3) significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed rule on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VII. Statutory Authority

The Commission is proposing amendments to rule 2a–7 of the Act under the exemptive and rulemaking authority set forth in sections 6(c), 8(b), 22(c), and 38(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–6(c), 80a–8(b), 80a–22(c), 80a–37(a)]. The Commission is proposing amendments to rule 31a–2 under the Act pursuant to the authority set forth in section 31(a) of the Investment Company Act [15 U.S.C. 80a–30(a)]. The Commission is proposing amendments to Form N–1A pursuant to the authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and sections 8, 24(a), 24(g), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–24(a), 80a–24(g), 80a–29, and 80a–37]. The Commission is proposing amendments to Form N–MFP pursuant to the authority set forth in sections 8(b), 30(b), 31(a), and 38(a) of the Investment Company Act [15 U.S.C. 80a–8(b), 80a–29(b), 80a–30(a), and 80a–37(a)]. The Commission is proposing amendments to Form N–CR pursuant to the authority set forth in sections 8(b), 30(b), 31(a), and 38(a) of the Investment Company Act [15 U.S.C. 80a–8(b), 80a–29(b), 80a–30(a), and 80a–37(a)].

List of Subjects in 17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

[471] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 1. The general authority citation for part 270 continues to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 2. Amend section 270.2a–7 by:

■ a. Revising paragraphs (c)(1)(ii) and (c)(2);

■ b. Adding paragraph (c)(3); and

■ c. Revising paragraphs (d)(1)(ii) and (iii), (d)(4)(ii) and (iii), (g)(8)(i), (g)(8)(ii)(A), (h)(8), (h)(10) introductory text, (h)(10)(i)(B)(*2*), (h)(10)(iii) through (v), (h)(11), and (j).

The revisions and addition read as follows:

§ 270.2a–7 Money market funds

* * * * *

(c) * * *

(1) * * *

(ii) Any money market fund that is not a government money market fund or a retail money market fund must compute its price per share for purposes of distribution, redemption and repurchase by rounding the fund's current net asset value per share (including any adjustment to that price under paragraph (c)(2) of this section) to a minimum of the fourth decimal place in the case of a fund with a $1.0000 share price or an equivalent or more precise level of accuracy for money market funds with a different share price (*e.g.,* $10.000 per share, or $100.00 per share).

(2) *Swing pricing.*

(i) *Swing pricing requirement.* Notwithstanding § 270.22c–1, any money market fund that is not a government money market fund or a retail money market fund must establish and implement swing pricing policies and procedures as described in paragraph (2)(ii) of this section.

(ii) The fund's swing pricing policies and procedures must:

(A) Provide that the fund must adjust its current net asset value per share by a swing factor if the fund has net redemptions for the pricing period. In determining whether the fund has net redemptions for a pricing period and the amount of net redemptions, the swing pricing administrator is permitted to make such determination based on receipt of sufficient investor flow information for the pricing period to allow the fund to reasonably estimate whether it has net redemptions and the amount of net redemptions. This investor flow information may consist of individual, aggregated, or netted orders, and may include reasonable estimates where necessary.

(B) Specify the process for determining the swing factor, in accordance with paragraph (c)(2)(iii) of this section.

(iii) In determining the swing factor, the swing pricing administrator must make good faith estimates, supported by data, of the costs the fund would incur if it sold a pro rata amount of each security in its portfolio to satisfy the amount of net redemptions for the pricing period.

(A) If the fund has net redemptions for the pricing period, the good faith estimates must include, for each security in the fund's portfolio:

(*1*) Spread costs, such that the fund is valuing each security at its bid price;

(*2*) Brokerage commissions, custody fees, and any other charges, fees, and taxes associated with portfolio security sales; and

(B) If the amount of the fund's net redemptions for the pricing period exceeds the market impact threshold, the good faith estimates also must include, for each security in the fund's portfolio, market impacts, which a fund must determine by:

(*1*) Establishing a market impact factor for each security, which is an estimate of the percentage change in the value of the security if it were sold, per dollar of the amount of the security that would be sold, under current market conditions; and

(*2*) Multiplying the market impact factor for each security by the dollar amount of the security that would be sold if the fund sold a pro rata amount of each security in its portfolio to meet the net redemptions for the pricing period.

(C) The swing pricing administrator may estimate costs and market impact factors for each type of security with the same or substantially similar characteristics and apply those estimates to all securities of that type rather than analyze each security separately.

(iv) The fund's board of directors, including a majority of directors who are not interested persons of the fund must:

(A) Approve the fund's swing pricing policies and procedures;

(B) Designate the swing pricing administrator. The administration of swing pricing must be reasonably segregated from portfolio management of the fund and may not include portfolio managers;

(C) Review, no less frequently than annually, a written report prepared by

the swing pricing administrator that describes:

(*1*) Its review of the adequacy of the fund's swing pricing policies and procedures and the effectiveness of their implementation, including their effectiveness at eliminating or reducing any liquidity costs associated with satisfying shareholder redemptions;

(*2*) Any material changes to the fund's swing pricing policies and procedures since the date of the last report; and

(*3*) Its review and assessment of the fund's swing factors and market impact threshold, considering the requirements of paragraphs (c)(2)(ii)(B) and (c)(2)(iii) of this section, including the information and data supporting the determination of the swing factors and the swing pricing administrator's determination to use a smaller market impact threshold, if applicable.

(v) Any fund (a ''feeder fund'') that invests, pursuant to section 12(d)(1)(E) of the Act (15 U.S.C. 80a–12(d)(1)(E), in another fund (a ''master fund'') may not use swing pricing to adjust the feeder fund's net asset value per share; however, a master fund subject to this paragraph (c)(2) must use swing pricing to adjust the master fund's net asset value per share, pursuant to the requirements in this paragraph (c)(2).

(vi) For purposes of this paragraph (c)(2):

(A) *Investor flow information* means information about the fund investors' purchase and redemption activity for the pricing period.

(B) *Market impact threshold* means an amount of net redemptions for a pricing period that equals the value of four percent of the fund's net asset value divided by the number of pricing periods the fund has in a business day, or such smaller amount of net redemptions as the swing pricing administrator determines.

(C) *Pricing period* means the period of time an order to purchase or sell securities issued by the fund must be received to otherwise be priced at a given current net asset value under § 270.22c–1, notwithstanding any adjustment to that price that paragraph (c)(2) of this section may require.

(D) *Swing factor* means the amount, expressed as a percentage of the fund's net asset value and determined pursuant to the fund's swing pricing policies and procedures, by which a fund adjusts its net asset value per share.

(E) *Swing pricing administrator* means the fund's investment adviser, officer, or officers responsible for administering the swing pricing policies and procedures. The swing pricing administrator may consist of a group of persons.

(3) *Prohibited activities.* A money market fund may not reduce the number of its shares outstanding to seek to maintain a stable net asset value per share or stable price per share.

(d) * * *

(1) * * *

(i) * * *

(ii) Maintain a dollar-weighted average portfolio maturity (''WAM'') that exceeds 60 calendar days, with the dollar-weighted average based on the percentage of each security's market value in the portfolio; or

(iii) Maintain a dollar-weighted average portfolio maturity that exceeds 120 calendar days, determined without reference to the exceptions in paragraph (i) of this section regarding interest rate readjustments (''WAL'') and with the dollar-weighted average based on the percentage of each security's market value in the portfolio.

* * * * *

(4) * * *

(ii) *Minimum daily liquidity requirement.* The money market fund may not acquire any security other than a daily liquid asset if, immediately after the acquisition, the fund would have invested less than twenty-five percent of its total assets in daily liquid assets. This provision does not apply to tax exempt funds.

(iii) *Minimum weekly liquidity requirement.* The money market fund may not acquire any security other than a weekly liquid asset if, immediately after the acquisition, the fund would have invested less than fifty percent of its total assets in weekly liquid assets.

* * * * *

(f) * * *

(4) *Notice to the board of directors.*

(i) The money market fund must notify its board of directors within one business day following the occurrence of:

(A) The money market fund investing less than twelve and a half percent of its total assets in daily liquid assets; or

(B) The money market fund investing less than twenty-five percent of its total assets in weekly liquid assets.

(ii) Following an event described in paragraphs (f)(4)(i) or (ii) of this section, the money market fund must provide its board of directors with a brief description of the facts and circumstances leading to such event within four business days after occurrence of the event.

(g) * * *

(8) * * *

(i) *General.* The periodic stress testing, at such intervals as the board of directors determines appropriate and reasonable in light of current market conditions, of the money market fund's ability to maintain sufficient minimum liquidity, and the fund's ability to minimize principal volatility (and, in the case of a money market fund using the amortized cost method of valuation or penny rounding method of pricing as provided in paragraph (c)(1) of this section, the fund's ability to maintain the stable price per share established by the board of directors for the purpose of distribution, redemption and repurchase), based upon specified hypothetical events that include, but are not limited to:

* * * * *

(ii) * * *

(A) The date(s) on which the testing was performed and an assessment of the money market fund's ability to maintain sufficient minimum liquidity and to minimize principal volatility (and, in the case of a money market fund using the amortized cost method of valuation or penny rounding method of pricing as provided in paragraph (c)(1) of this section to maintain the stable price per share established by the board of directors); and

* * * * *

(h) * * *

* * * * *

(8) *Reports.* For a period of not less than six years (the first two years in an easily accessible place), written copies of the swing pricing reports required under paragraph (c)(2)(iv)(C) and the stress testing reports required under paragraph (g)(8)(ii) of this section must be maintained and preserved.

* * * * *

(10) *Website disclosure of portfolio holdings and other fund information.* The money market fund must post prominently on its website the following information:

(i) * * *

(B) * * *

(*2*) Category of investment (indicate the category that identifies the instrument from among the following: U.S. Treasury Debt; U.S. Government Agency Debt, if categorized as coupon-paying notes; U.S. Government Agency Debt, if categorized as no-coupon discount notes; Non-U.S. Sovereign, Sub-Sovereign and Supra-National debt; Certificate of Deposit; Non-Negotiable Time Deposit; Variable Rate Demand Note; Other Municipal Security; Asset Backed Commercial Paper; Other Asset Backed Securities; U.S. Treasury Repurchase Agreement, if collateralized only by U.S. Treasuries (including Strips) and cash; U.S. Government Agency Repurchase Agreement, collateralized only by U.S. Government Agency securities, U.S. Treasuries, and

cash; Other Repurchase Agreement, if any collateral falls outside Treasury, Government Agency and cash; Insurance Company Funding Agreement; Investment Company; Financial Company Commercial Paper; Non-Financial Company Commercial Paper; and Other Instrument. If Other Instrument, include a brief description);

* * * * *

(iii) A schedule, chart, graph, or other depiction showing the money market fund's net asset value per share (which the fund must calculate based on current market factors before applying the amortized cost or penny-rounding method, if used, and which must incorporate the application of a swing factor under paragraph (c)(2) of this section, if applied), rounded to the fourth decimal place in the case of funds with a $1.0000 share price or an equivalent level of accuracy for funds with a different share price (*e.g.,* $10.000 per share), as of the end of each business day during the preceding six months, which must be updated each business day as of the end of the preceding business day.

(iv) A link to a website of the Securities and Exchange Commission where a user may obtain the most recent 12 months of publicly available information filed by the money market fund pursuant to § 270.30b1–7.

(v) For a period of not less than one year, beginning no later than the same business day on which the money market fund files an initial report on Form N–CR (§ 274.222 of this chapter) in response to the occurrence of any event specified in Part C of Form N–CR, the same information that the money market fund is required to report to the Commission on Part C (Items C.1, C.2, C.3, C.4, C.5, C.6, and C.7) of Form N–CR concerning such event, along with the following statement: ''The Fund was required to disclose additional information about this event on Form N–CR and to file this form with the Securities and Exchange Commission. Any Form N–CR filing submitted by the Fund is available on the EDGAR Database on the Securities and Exchange Commission's internet site at *http://www.sec.gov.*''

(11) *Processing of transactions.*

(i) A government money market fund and a retail money market fund (or its transfer agent) must have the capacity to redeem and sell securities issued by the fund at a price based on the current net asset value per share pursuant to § 270.22c–1. Such capacity must include the ability to redeem and sell securities at prices that do not correspond to a stable price per share.

(ii) With respect to each financial intermediary that submits orders, itself or through its agent, to purchase or redeem shares directly to the government money market fund or retail money market fund, its principal underwriter or transfer agent, or to a registered clearing agency, the fund (or on the fund's behalf, the principal underwriter or transfer agent) must either:

(A) Determine that the financial intermediary has the capacity to redeem and sell securities issued by the fund at a price based on the current net asset value per share pursuant to § 270.22c–1. Such capacity must include prices that do not correspond to a stable price per share; or

(B) Prohibit the financial intermediary from purchasing in nominee name on behalf of other persons, securities issued by the fund.

(iii) A government money market fund and a retail money market fund must maintain and keep current records identifying the financial intermediaries the fund has determined have the capacity described in paragraph (h)(11)(ii)(A) of this section and the financial intermediaries for which the fund was unable to make this determination. A fund must preserve a written copy of such records for a period of not less than six years following each identification of a financial intermediary (the first two years in an easily accessible place).

(iv) For purposes of this paragraph (h)(11), the term ''financial intermediary'' has the same meaning as in § 270.22c–2(c)(1).

* * * * *

(j) *Delegation.* The money market fund's board of directors may delegate to the fund's investment adviser or officers the responsibility to make any determination required to be made by the board of directors under this section other than the determinations required by paragraphs (c)(1) (board findings), (c)(2) (swing pricing requirement), (f)(1) (adverse events), (g)(1) and (2) (amortized cost and penny rounding procedures), and (g)(8) (stress testing procedures) of this section.

■ 3. Amend § 270.31a–2 by revising paragraph (a)(2) to read as follows:

§ 270.31a–2 Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.

(a) * * *

(2) Preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, all books and records required to be made pursuant to paragraphs (b)(5) through (12) of § 270.31a–1 and all vouchers, memoranda, correspondence, checkbooks, bank statements, cancelled checks, cash reconciliations, cancelled stock certificates, and all schedules evidencing and supporting each computation of net asset value of the investment company shares, including schedules evidencing and supporting each computation of an adjustment to net asset value of the investment company shares based on swing pricing policies and procedures established and implemented pursuant to § 270.22c–1(a)(3) or § 270.2a–7(c)(2), and other documents required to be maintained pursuant to § 270.31a–1(a) and not enumerated in § 270.31a–1(b).

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 4. The general authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l,* 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, 80a–29, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 5. Amend Form N–1A (referenced in §§ 239.15A and 274.11A) by revising Instruction 2(b) to Item 3, Item 4(b)(1)(ii), Item 6(d), and Item 16(g).

Note: The text of Form N–1A does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 3. Risk/Return Summary: Fee Table

* * * * *

Instructions

* * * * *

2. *Shareholder Fees*

(a) * * *

(b) ''Redemption Fee'' includes a fee charged for any redemption of the Fund's shares, but does not include a deferred sales charge (load) imposed upon redemption.

* * * * *

Item 4. Risk/Return Summary: Investments, Risks, and Performance

* * * * *

(b) Principal Risks of Investing in the Fund.

(1) Narrative Risk Disclosure.

(i) * * *

(ii)(A) If the Fund is a Money Market Fund that is not a government Money

Market Fund, as defined in § 270.2a–7(a)(16), or a retail Money Market Fund, as defined in § 270.2a–7(a)(25), include the following statement:

You could lose money by investing in the Fund. Because the share price of the Fund will fluctuate, when you sell your shares they may be worth more or less than what you originally paid for them. Also, the Fund may adjust the price of its shares to reflect the Fund's liquidity costs from net sales of the Fund's shares. If you sell on a day when net sales occur, you may receive less for your shares than the value of the fund's net assets that day. An investment in the Fund is not a bank account and is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund's sponsor is not required to reimburse the fund for losses, and you should not expect that the sponsor will provide financial support to the Fund at any time, including during periods of market stress.

(B) If the Fund is a Money Market Fund that is a government Money Market Fund, as defined in § 270.2a–7(a)(16), or a retail Money Market Fund, as defined in § 270.2a–7(a)(25), include the following statement:

You could lose money by investing in the Fund. Although the Fund seeks to preserve the value of your investment at $1.00 per share, it cannot guarantee it will do so, particularly during periods of market stress. An investment in the Fund is not a bank account and is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund's sponsor is not required to reimburse the fund for losses, and you should not expect that the sponsor will provide financial support to the Fund at any time, including during periods of market stress.

Instruction. If an affiliated person, promoter, or principal underwriter of the Fund, or an affiliated person of such a person, has contractually committed to provide financial support to the Fund, and the term of the agreement will extend for at least one year following the effective date of the Fund's registration statement, the statement specified in Item 4(b)(1)(ii)(A) or Item 4(b)(1)(ii)(B) may omit the last sentence (''The Fund's sponsor has no legal obligation to provide financial support to the Fund, and you should not expect that the sponsor will provide financial support to the Fund at any time, including during periods of market stress.''). For purposes of this Instruction, the term ''financial support'' includes any capital contribution, purchase of a security from the Fund in reliance on § 270.17a–9, purchase of any defaulted or devalued security at par, execution of letter of credit or letter of indemnity, capital support agreement (whether or not the Fund ultimately received support), performance guarantee, or any other similar action reasonably intended to increase or stabilize the value or liquidity of the fund's portfolio; however, the term ''financial support'' excludes any routine waiver of fees or reimbursement of fund expenses, routine inter-fund lending, routine inter-fund purchases of fund shares, or any action that would qualify as financial support as defined above, that the board of directors has otherwise determined not to be reasonably intended to increase or stabilize the value or liquidity of the fund's portfolio.

* * * * *

Item 6. Purchase and Sale of Fund Shares

* * * * *

(d) If the Fund uses swing pricing, explain the Fund's use of swing pricing; including what swing pricing is, the circumstances under which the Fund will use it, and the effects of swing pricing on the Fund and investors, and provide the upper limit the Fund has set on the swing factor (except a Money Market Fund that uses swing pricing does not need to disclose a swing factor upper limit). With respect to any portion of a Fund's assets that is invested in one or more open-end management investment companies that are registered under the Investment Company Act, the Fund shall include a statement that the Fund's net asset value is calculated based upon the net asset values of the registered open-end management companies in which the Fund invests, and, if applicable, state that the prospectuses for those companies explain the circumstances under which they will use swing pricing and the effects of using swing pricing.

* * * * *

Item 16. Description of the Fund and Its Investments and Risks

* * * * *

(g) *Money Market Fund Material Events.* If the Fund is a Money Market Fund, disclose, as applicable, any occasion during the last 10 years on which an affiliated person, promoter, or principal underwriter of the Fund, or an affiliated person of such a person, provided any form of financial support to the Fund, including a description of the nature of support, person providing support, brief description of the relationship between the person providing support and the Fund, date support provided, amount of support, security supported (if applicable), and the value of security supported on date support was initiated (if applicable).

Instructions

1. * * *

2. If during the last 10 years, the Fund has participated in one or more mergers with another investment company (a ''merging investment company''), provide the information required by Item 16(g) with respect to any merging investment company as well as with respect to the Fund; for purposes of this Instruction, the term ''merger'' means a merger, consolidation, or purchase or sale of substantially all of the assets between the Fund and a merging investment company. If the person or entity that previously provided financial support to a merging investment company is not currently an affiliated person, promoter, or principal underwriter of the Fund, the Fund need not provide the information required by Item 16(g) with respect to that merging investment company.

3. The disclosure required by Item 16(g) should incorporate, as appropriate, any information that the Fund is required to report to the Commission on Items C.1, C.2, C.3, C.4, C.5, C.6, and C.7 of Form N–CR [17 CFR 274.222].

4. The disclosure required by Item 16(g) should conclude with the following statement: ''The Fund was required to disclose additional information about this event [or ''these events,'' as appropriate] on Form N–CR and to file this form with the Securities and Exchange Commission. Any Form N–CR filing submitted by the Fund is available on the EDGAR Database on the Securities and Exchange Commission's internet site at *http://www.sec.gov.*''

* * * * *

■ 6. Form N–MFP (referenced in § 274.201) is revised to read as follows:

Note: The text of Form N–MFP does not, and these amendments will not, appear in the Code of Federal Regulations.

BILLING CODE 8011–01–P

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM N-MFP

MONTHLY SCHEDULE OF PORTFOLIO HOLDINGS OF MONEY MARKET FUNDS

(See instructions following the required items)

Intentional misstatements or omissions of fact constitute federal and criminal violations.

See 18 U.S.C. 1001.

General Information

Item 1. Report for: _____

m
m/
dd
/y
yy
y

Item 2. Name of Registrant:

_____

Item 3. CIK Number of Registrant:

_____

Item 4. LEI of Registrant:

_____

Item 5. Name of Series:

_____

Item 6. LEI of Series:

_____

Item 7. EDGAR Series Identifier:

_____

Item 8. Total number of share classes in the series:

_____

Item 9. Do you anticipate that this will be the fund's final filing on Form N-MFP?

[ ] Yes [ ] No

(*If Yes, answer Items 9.a – 9.c.*)

a. Is the fund liquidating? [ ] Yes [ ] No

b. Is the fund merging with, or being acquired by, another fund? [ ] Yes [ ] No

c. If applicable, identify the successor fund by CIK, Securities Act file number, and EDGAR series identifier:

_____

Item 10. Has the fund acquired or merged with another fund since the last filing? [ ] Yes [ ] No

(*If Yes, answer Item 10.a.*)

a. Identify the acquired or merged fund by CIK, Securities Act file number, and EDGAR series identifier:

_____

Item 11. Provide the name, email address, and telephone number of the person authorized to receive information and respond to questions about this Form N-MFP:

Name _____

Email _____

Telephone _____

Part A. Series-Level Information about the Fund

Item A.1. Securities Act FileNumber.

_____

Item A.2. Investment Adviser.

_____

a. SEC file number of investment adviser.

_____

Item A.3. Sub-Adviser. If a fund has one or more sub-advisers, disclose the name of each sub-adviser.

_____

a. SEC file number of each sub-adviser.

_____

Item A.4. Independent Public Accountant.

_____

a. City and state of independent public accountant.

_____

Item A.5. Administrator. If a fund has one or more administrators, disclose the name of each administrator.

_____

Item A.6. Transfer Agent.

_____

a. CIK Number.

_____

b. SEC file number of transfer agent.

_____

Item A.7. Master-Feeder Funds. Is this a Feeder Fund? [ ] Yes [ ] No (*If Yes, answer Items A.7.a – 7.c.*)

a. Identify the Master Fund by CIK or, if the fund does not have a CIK, by name.

_____

b. Securities Act file number of the Master Fund.

_____

c. EDGAR series identifier of the Master Fund.

_____

Item A.8. Master-Feeder Funds. Is this a Master Fund? [ ] Yes [ ] No (*If Yes, answer Items A.8.a – 8.c.*)

a. Identify all Feeder Funds by CIK or, if the fund does not have a CIK, by name.

_____

b. Securities Act file number of each Feeder Fund.

_____

c. EDGAR series identifier of each Feeder Fund.

_____

Item A.9. Is this series primarily used to fund insurance company separate accounts?

[ ] Yes [ ] No

Item A.10. Category. Indicate the category that identifies the money market fund from among the following:

[ ] Government [ ]

Prime

[ ] Single State [ ] Other Tax Exempt

a. Is this fund a Retail Money Market Fund? [ ]Yes [ ] No

b. If this is a Government Money Market Fund, does the fund typically invest at least 80% of the value of its assets in U.S. Treasury obligations or repurchase agreements collateralized by U.S. Treasury obligations?

[ ]Yes [ ] No

Item A.11. Dollar-weighted average portfolio maturity ("WAM" as defined in rule 2a-7(d)(1)(ii)).

_____

Item A.12. Dollar-weighted average life maturity ("WAL" as defined in rule 2a-7(d)(1)(iii)). Calculate WAL without reference to the exceptions in rule 2a-7(d) regarding interest rate readjustments.

_____

Item A.13. Liquidity. Provide the following, as of the close of business on each business day of the month reported:

a. Total Value of Daily Liquid Assets to the nearest cent.

_____

b. Total Value of Weekly Liquid Assets (including Daily Liquid Assets) to the nearest cent.

_____

c. Percentage of Total Assets invested in Daily Liquid Assets.

_____

d. Percentage of Total Assets invested in Weekly Liquid Assets (including

Daily Liquid Assets).

_____

Item A.14. Provide the following, to the nearest cent:

a. Cash. (*See General Instructions E.*) _____

b. Total Value of portfolio securities. (*See General Instructions E.*)

_____

i. If any portfolio securities are valued using amortized cost, the total value of the portfolio securities valued at amortized cost.

_____

c. Total Value of other assets (excluding amounts provided in A.14.a–c.)

_____

Item A.15. Total value of liabilities, to the nearest cent.

_____

Item A.16. Net assets of the series, to the nearest cent.

_____

Item A.17. Number of shares outstanding, to the nearest hundredth.

_____

Item A.18. Does the fund seek to maintain a stable price per share? [ ] Yes [ ] No

a. If yes, state the price the fund seeks to maintain.

_____

Item A.19. 7-day gross yield. For each business day, based on the immediately preceding 7 business days, calculate the fund's yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one share at the beginning of the period and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent. The 7-day gross yield should not reflect a deduction of shareholders fees and fund operating expenses. For master funds and feeder funds, report the 7-day gross yield at the master-fund level.

_____

Item A.20. Net asset value per share. Provide the net asset value per share, calculated using available market quotations (or an appropriate substitute that reflects current market conditions) and including the application of a Swing Factor, if applied, rounded to the fourth decimal place in the case of a fund with a $1.0000 share price (or an equivalent level of accuracy for funds with a different share price), as of the close of business on each business day of the month reported. _____

Item A.21. Is this Fund established as a cash management vehicle for affiliated funds or other accounts managed by related entities or their affiliates and not available to other investors? [ ] Yes [ ] No

Item A.22. Swing Factor. For a fund that is not a Government Money Market Fund or a Retail Money Market Fund:

a. Provide the number of times the fund applied a Swing Factor during the reporting period. _____

b. For each business day of the month reported, provide the amount of any Swing Factor applied by the fund. If on a single business day the fund applied a Swing Factor during multiple pricing periods (as defined in rule 2a-7(c)(2)(vi)(C)), provide each Swing Factor applied on that day. Report N/A for any business day on which the fund did not apply a Swing Factor. _____

Part B: Class-Level Information about the Fund

For each Class of the Series (regardless of the number of shares outstanding in the Class), disclose the following:

Item B.1. Full name of the Class. _____

Item B.2. EDGAR Class identifier. _____

Item B.3. Minimum initial investment. _____

Item B.4. Net assets of the Class, to the nearest cent. _____

Item B.5. Number of shares outstanding, to the nearest hundredth. _____

Item B.6. Net asset value per share. Provide the net asset value per share, calculated using available market quotations (or an appropriate substitute that reflects current market conditions) and including the application of a Swing Factor, if applied, rounded to the fourth decimal place in the case of a fund with a

$1.0000 share price (or an equivalent level of accuracy for funds with a different share price), as of the close of business on each business day of the month reported. _____

Item B.7. Net shareholder flow. Provide (a) the daily gross subscriptions (including dividend reinvestments) and gross redemptions, rounded to the nearest cent, as of the close of business on each business day of the month reported; and (b) the total gross subscriptions (including dividend reinvestments) and total gross redemptions for the month reported. For purposes of this Item, (i) report gross subscriptions (including dividend reinvestments) and gross redemptions as of the trade date, and (ii) for Master-Feeder Funds, only report the required shareholder flow data at the Feeder Fund level.

_____

Item B.8. 7-day net yield for each business day of the month reported, as calculated under Item 26(a)(1) of Form N-1A (§ 274.11A of this chapter) except based on the 7 business days immediately preceding a given business day.

_____

Item B.9. During the reporting period, did any person pay for or waive all or part of the fund's operating expenses or management fees? [ ] Yes [ ] No

If Yes, answer Item B.9.a.:

a. Total amount of the expense payment or fee waiver, or both (reported in dollars).

_____

Item B.10. For each person who owns of record or is known by the Fund to own beneficially 5% or more of the shares outstanding in the Class, provide the following information. For purposes of this question, if the Fund knows that two or more beneficial owners of the Class are affiliated with each other, treat them as a single beneficial owner when calculating the percentage ownership and identify separately each affiliated beneficial owner and the percentage interest of each affiliated beneficial owner. An affiliated beneficial owner is one that directly or indirectly controls or is controlled by another beneficial owner or is under common control with any other beneficial owner.

a. Name _____

b. Percent of shares outstanding in the Class owned of record _____

c. Percent of shares outstanding in the Class owned beneficially _____

Item B.11. Shareholder Composition. If the fund is not a government money market fund or retail money market fund, identify the percentage of investors within the following categories:

a. Non-Financial corporations: _____

b. Pension plans: _____

c. Non-Profits: _____

d. State or municipal government entities (excluding governmental pension plans): _____

e. Registered investment companies: _____

f. Private funds: _____

g. Depository institutions and other banking institutions: _____

h. Sovereign wealth funds: _____

i. Broker-dealers: _____

j. Insurance companies: _____

k. Other: _____

If *Other*, provide a brief description of the types of investors included in this category. _____

Part C: Schedule of Portfolio Securities

For each security held by the money market fund, disclose the following information. Separately provide the required information for the initial acquisition of a security and any subsequent acquisitions of the security.

Item C.1. The name of the issuer or the name of the counterparty in a repurchase agreement.

_____

Item C.2. The title of the issue.

_____

Item C.3. The CUSIP.

_____

Item C.4. The LEI.

_____

Item C.5. Other identifier. In addition to CUSIP and LEI, provide at least one of the following other identifiers, if available:

a. The ISIN; _____

b. The CIK;_____

c. The RSSD ID; _____ or

d. Other unique identifier. _____

Item C.6. Security acquisition.

a. Provide the trade date on which the fund acquired the security.

_____

mm/dd/yyyy

b. Provide the yield of the security as of the trade date(s).

_____

Item C.7. The category of investment. Indicate the category that most closely identifies the instrument from among the following:

[ ] U.S. Treasury Debt

[ ] U.S. Government Agency Debt (*if categorized as coupon-paying notes)*

[ ] U.S. Government Agency Debt Sub- *coupon discount notes)*

[ ] Non-U.S. Sovereign, *(if categorized as no-*

Sovereign and Supra-National

Debt

[ ] Certificate of Deposit

[ ] Non-Negotiable Time Deposit

[ ] Variable Rate Demand Note

[ ] Other Municipal Security

[ ] Asset Backed Commercial Paper

[ ] Other Asset Backed Securities

[ ] U.S. Treasury Repurchase Agreement

[ ] U.S. Government

Agency

if collateralized only by U.S. Treasuries (including Strips) and cash Government

Treasuries,

Repurchase Agreement

collateralized only by U.S.

Agency securities, U.S. and cash

[ ] Other Repurchase Agreement Funding

if collateral falls outside Treasury, Government Agency, and cash

[ ] Insurance Company

Agreement

[ ] Investment Company Commercial

[ ] Financial Company Paper

[ ] Non-Financial Company Commercial Paper

[ ] Tender Option Bond

[ ] Other Instrument

If *Other Instrument,* include a brief description. _____

Item C.8. If the security is a repurchase agreement, is the fund treating the acquisition of the repurchase agreement as the acquisition of the underlying securities (i.e., collateral) for purposes of portfolio diversification under rule 2a-7?

[ ] Yes [ ] No

Item C.9. For all repurchase agreements, specify whether the repurchase agreement is "open"

(i.e., the repurchase agreement has no specified end date and, by its terms, will be extended or "rolled" each business day (or at another specified period) unless the investor chooses to terminate it), and describe the securities subject to the repurchase agreement (i.e., collateral).

a. Is the repurchase agreement "open"? [ ] Yes [ ] No

b. Is the repurchase agreement centrally cleared? [ ] Yes [ ] No

If *Yes*, provide the name of the central clearing counterparty (CCP).

_____

c. Is the repurchase agreement settled on the triparty platform [ ]Yes [ ] No

d. The name of the collateral issuer. _____

e. LEI. _____

f. The CUSIP. _____

g. Maturity date. _____

h. Coupon or yield. _____

i. The principal amount, to the nearest cent. _____

j. Value of collateral, to the nearest cent. _____

k. The category of investment that most closely represents the collateral, selected from among the following:

[ ] Asset-Backed Securities

[ ] Agency Collateralized Mortgage Obligations

[ ] Agency Debentures and Agency Strips

[ ] Agency Mortgage-Backed Securities

[ ] Private Label Collateralized Mortgage Securities Obligations

[ ] Corporate Debt

[ ] Equities

[ ] Money Market

[ ] U.S. Treasuries (including strips)

[ ] Cash

[ ] Other Instrument. If *Other Instrument*, include a brief description, including, if applicable, whether it is a collateralized debt obligation, municipal debt, whole loan, or international debt.

_____

Item C.10. Is the security an Eligible Security? [ ] Yes [ ] No

Item C.11. Security rating(s) considered. Provide each rating assigned by any NRSRO that the fund's board of directors (or its delegate) considered in determining that the security presents minimal credit risks (together with the name of the assigning NRSRO). If none, leave blank.

_____

Item C.12. The maturity date determined by taking into account the maturity shortening provisions of rule 2a-7(i) (i.e., the maturity date used to

calculate WAM under rule 2a-7(d)(1)(ii)).

_____
mm/dd/yyyy

Item C.13. The maturity date determined without reference to the exceptions in rule 2a-7(i) regarding interest rate readjustments (i.e., the maturity date used to calculate WAL under rule 2a-7(d)(1)(iii)).

_____
mm/dd/yyyy

Item C.14. The maturity date determined without reference to the maturity shortening provisions of rule 2a-7(i) (i.e., the ultimate legal maturity date on which, in accordance with the terms of the security without regard to any interest rate readjustment or demand feature, the principal amount must unconditionally be paid).

_____
mm/dd/yyyy

Item C.15. Does the security have a Demand Feature on which the fund is relying to determine the quality, maturity or liquidity of the security? [ ] Y [ ] N *If Yes, answer Items C.15.a – 15.e. Where applicable, provide the information required in Items C.15.b-15.e in the order that each Demand Feature issuer was reported in Item C.15.a.*

a. The identity of the Demand Feature issuer(s).

_____

b. The amount (i.e., percentage) of fractional support provided by each Demand Feature issuer.

_____

c. The period remaining until the principal amount of the security may be recovered through the Demand Feature.

_____

d. Is the demand feature conditional? [ ] Yes [ ] No

e. Rating(s) considered. Provide each rating assigned to the demand feature(s) or demand feature provider(s) by any NRSRO that the board of directors (or its delegate) considered in evaluating the quality, maturity or liquidity of the security (together with the name of the assigning NRSRO). If none, leave blank. _____

Item C.16. Does the security have a Guarantee (other than an unconditional letter of credit disclosed in item C.14 above) on which the fund is relying to

determine the quality, maturity or liquidity of the security? [ ] Yes [ ] No
If Yes, answer Items C.16.a – 16.c. Where applicable, provide the information required in Item C.16.b – 16.c in the order that each Guarantor was reported in Item C.16.a.

a. The identity of the Guarantor(s).

_____

b. The amount (i.e., percentage) of fractional support provided by each Guarantor.

_____

c. Rating(s) considered. Provide each rating assigned to the guarantee(s) or guarantor(s) by any NRSRO that the board of directors (or its delegate) considered in evaluating the quality, maturity or liquidity of the security (together with the name of the assigning NRSRO). If none, leave blank.

_____

Item C.17. Does the security have any enhancements, other than those identified in Items C.14 and C.15 above, on which the fund is relying to determine the quality, maturity or liquidity of the security?
[ ] Yes [ ] No *If Yes, answer Items C.17.a – 17.d. Where applicable, provide the information required in Items C.17.b – 17.d in the order that each enhancement provider was reported in Item C.17.a.*

a. The identity of the enhancement provider(s).

_____

b. The type of enhancement(s).

_____

c. The amount (i.e., percentage) of fractional support provided by each enhancement provider.

_____

d. Rating(s) considered. Provide each rating assigned to the enhancement(s) or enhancement provider(s) by any NRSRO that the board of directors (or its delegate) considered in evaluating the quality, maturity or liquidity of the security (together with the name of the assigning NRSRO). If none, leave blank.

_____

Item C.18. The yield of the security as of the reporting date. _____

Item C.19. The total Value of the fund's position in the security, to the nearest cent: (*See General Instruction E.*)

_____

a. *Including* the value of any sponsor support: _____

b. *Excluding* the value of any sponsor support: _____

Item C.20. The percentage of the money market fund's net assets invested in the security, to the nearest hundredth of a percent.

_____%

Item C.21. Is the security categorized at level 3 in the fair value hierarchy under U.S. Generally Accepted Accounting Principles (*ASC 820, Fair Value Measurement*)?

[ ] Yes [ ] No

Item C.22. Is the security a Daily Liquid Asset? [ ] Yes [ ] No

Item C.23. Is the security a Weekly Liquid Asset? [ ] Yes [ ] No

Item C.24. Is the security an Illiquid Security? [ ] Yes [ ] No

Item C.25. Explanatory notes. Disclose any other information that may be material to other disclosures related to the portfolio security. If none, leave blank.

Part D. Disposition of Portfolio Securities

Item D.1. Disclose the amount of portfolio securities the money market fund sold or disposed of during the reporting period by category of investment. Do not include portfolio securities that the fund held until maturity. A money market fund that is a government money market fund or a tax exempt fund, as defined in rule 2a-7(a)(23) [17 CFR 270.2a-7(a)(23)], is not required to respond to Part D.

a. U.S. Treasury Debt, to the nearest cent.

_____

b. U.S. Government Agency Debt (if categorized as coupon-

paying notes), to the nearest cent.

_____

c. U.S. Government Agency Debt (if categorized as no-coupon discount notes), to the nearest cent.

_____

d. Non-U.S. Sovereign, Sub-Sovereign and Supra-National Debt, to the nearest cent.

_____

e. Certificate of Deposit, to the nearest cent.

_____

f. Non-Negotiable Time Deposit, to the nearest cent.

_____

g. Variable Rate Demand Note, to the nearest cent.

_____

h. Other Municipal Security, to the nearest cent.

_____

i. Asset Backed Commercial Paper, to the nearest cent.

_____

j. Other Asset Backed Securities, to the nearest cent.

_____

k. U.S. Treasury Repurchase Agreement (if collateralized only by U.S. Treasuries (including Strips) and cash), to the nearest cent.

_____

l. U.S. Government Agency Repurchase Agreement (collateralized only by U.S. Government Agency securities, U.S. Treasuries, and cash), to the nearest cent. _____

m. Other Repurchase Agreement (if collateral falls outside Treasury, Government Agency, and cash), to the nearest cent.

_____

n. Insurance Company Funding Agreement, to the nearest cent.

_____

o. Investment Company, to the nearest cent.

_____

p. Financial Company Commercial Paper, to the nearest cent.

_____

q. Non-Financial Company Commercial Paper, to the nearest cent.

_____

r. Tender Option Bond, to the nearest cent.

_____

s. Other Instrument, to the nearest cent.

_____

If *Other Instrument*, include a brief description

_____

SIGNATURES

Pursuant to the requirements of the Investment Company Act of 1940, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

_____
(Registrant)

_____
mm/dd/yy

_____
(Signature)

_____ _____
Name Title

*Print name and title of the signing officer under his/her signature.

BILLING CODE 8011–01–C

U.S. SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Form N–MFP

Monthly Schedule of Portfolio Holdings of Money Market Funds

Form N–MFP is to be used by registered open-end management investment companies, or series thereof, that are regulated as money market funds pursuant to rule 2a–7 under the Investment Company Act of 1940 (''Act'') (17 CFR 270.2a–7) (''money market funds''), to file reports with the Commission pursuant to rule 30b1–7 under the Act (17 CFR 270.30b1–7). The Commission may use the information provided on Form N–MFP in its regulatory, disclosure review, inspection, and policymaking roles.

General Instructions

A. Rule as To Use of Form N–MFP

Form N–MFP is the public reporting form that is to be used for monthly reports of money market funds required by section 30(b) of the Act and rule 30b1–7 under the Act (17 CFR 270.30b1–7). A money market fund must report information about the fund and its portfolio holdings as of the last business day or any subsequent calendar day of the preceding month. The Form N–MFP must be filed with the Commission no later than the fifth business day of each month, but may be filed any time beginning on the first business day of the month. Each money market fund, or series of a money market fund, is required to file a separate form. If the money market fund does not have any classes, the fund must provide the information required by Part B for the series. A money market fund is not required to respond to an item that is wholly inapplicable. If an item requests information that is not

applicable (for example, a company does not have an LEI), respond N/A.

A money market fund may file an amendment to a previously filed Form N–MFP at any time, including an amendment to correct a mistake or error in a previously filed form. A fund that files an amendment to a previously filed form must provide information in response to all items of Form N–MFP, regardless of why the amendment is filed.

B. Application of General Rules and Regulations

The General Rules and Regulations under the Act contain certain general requirements that are applicable to reporting on any form under the Act. These general requirements should be carefully read and observed in the preparation and filing of reports on this form, except that any provision in the form or in these instructions shall be controlling.

C. Filing of Form N–MFP

A money market fund must file Form N–MFP in accordance with rule 232.13 of Regulation S–T. Form N–MFP must be filed electronically using the Commission's EDGAR system.

D. Paperwork Reduction Act Information

A registrant is not required to respond to the collection of information contained in Form N–MFP unless the Form displays a currently valid Office of Management and Budget (''OMB'') control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to the Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. 3507.

E. Definitions

References to sections and rules in this Form N–MFP are to the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Investment Company Act''), unless otherwise indicated. Terms used in this Form N–MFP have the same meaning as in the Investment Company Act or related rules, unless otherwise indicated.

As used in this Form N–MFP, the terms set out below have the following meanings:

''Cash'' means demand deposits in depository institutions and cash holdings in custodial accounts.

''Class'' means a class of shares issued by a Multiple Class Fund that represents interests in the same portfolio of securities under rule 18f–3 [17 CFR 270.18f–3] or under an order exempting the Multiple Class Fund from sections 18(f), 18(g), and 18(i) [15 U.S.C. 80a–18(f), 18(g), and 18(i)].

''Fund'' means the Registrant or a separate Series of the Registrant. When an item of Form N–MFP specifically applies to a Registrant or a Series, those terms will be used.

''Government Money Market Fund'' means a money market fund as defined in 17 CFR 270.2a–7(a)(14).

''LEI'' means, with respect to any company, the ''legal entity identifier'' assigned by or on behalf of an internationally recognized standards setting body and required for reporting purposes by the U.S. Department of the Treasury's Office of Financial Research or a financial regulator.

''Master-Feeder Fund'' means a two-tiered arrangement in which one or more Funds (or registered or unregistered pooled investment vehicles) (each a ''Feeder Fund'') holds shares of a single Fund (the ''Master Fund'') in accordance with section 12(d)(1)(E) [15 U.S.C. 80a–12(d)(1)(E)].

''Money Market Fund'' means a registered open-end management investment company, or series thereof, that is regulated as a money market fund pursuant to rule 2a–7 (17 CFR 270.2a–7) under the Investment Company Act of 1940.

''Retail Money Market Fund'' means a money market fund as defined in 17 CFR 270.2a–7(a)(21).

''RSSD ID'' means the identifier assigned by the National Information Center of the Board of Governors of the Federal Reserve System, if any.

''Securities Act'' means the Securities Act of 1933 [15 U.S.C. 77a–aa].

''Series'' means shares offered by a Registrant that represent undivided interests in a portfolio of investments and that are preferred over all other series of shares for assets specifically allocated to that series in accordance with rule 18f–2(a) [17 CFR 270.18f–2(a)].

''Swing Factor'' means a swing factor as defined in 17 CFR 270.2a–70(c)(2)(vi)(D).

''Value'' has the meaning defined in section 2(a)(41) of the Act (15 U.S.C. 80a–2(a)(41)).

■ 7. Amend Form N–CR (referenced in § 274.222) by:

■ a. Revising the General Instructions in Sections A, C, D, and F and revising Parts A and C;

■ b. Removing Parts E, F, and G and replacing them with new Part E; and

■ c. Redesignating Part H to Part F.

The revisions read as follows:

Note: The text of Form N–CR does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–CR

* * * * *

General Instructions

A. Rule as To Use of Form N–CR

Form N–CR is the public reporting form that is to be used for current reports of money market funds required by section 30(b) of the Act and rule 30b1–8 under the Act. A money market fund must file a report on Form N–CR upon the occurrence of any one or more of the events specified in Parts B–F of this form. Unless otherwise specified, a report is to be filed within one business day after occurrence of the event. A report will be made public immediately upon filing. If the event occurs on a Saturday, Sunday, or holiday on which the Commission is not open for business, then the report is to be filed on the first business day thereafter.

* * * * *

C. Information To Be Included in Report Filed on Form N–CR

Upon the occurrence of any one or more of the events specified in Parts B–F of Form N–CR, a money market fund must file a report on Form N–CR that includes information in response to each of the items in Part A of the form, as well as each of the items in the applicable Parts B–F of the form.

D. Filing of Form N–CR

A money market fund must file Form N–CR in accordance with rule 232.13 of Regulation S–T. Reports on Form N–CR must be filed electronically using the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system in accordance with Regulation S–T. Consult the EDGAR Filer Manual and Appendices for EDGAR filing instructions.

* * * * *

F. Definitions

References to sections and rules in this Form N–CR are to the Investment Company Act (15 U.S.C. 80a), unless otherwise indicated. Terms used in this Form N–CR have the same meaning as in the Investment Company Act or rule 2a–7 under the Investment Company Act, unless otherwise indicated.

In addition, the following definitions apply:

''Fund'' means the registrant or a separate series of the registrant.

''LEI'' means, with respect to any company, the ''legal entity identifier'' as assigned by a utility endorsed by the

Global LEI Regulatory Oversight Committee or accredited by the Global LEI Foundation.

''Registrant'' means the investment company filing this report or on whose behalf the report is filed.

''Series'' means shared offered by a Registrant that represent undivided interests in a portfolio of investments and that are preferred over all other series of shares for assets specifically allocated to that series in accordance with rule 18f–2(a) (17 CFR 270.18f–2(a)).

* * * * *

Part A: General Information

Item A.1 Report for [mm/dd/yyyy].
Item A.2 Name of registrant.
Item A.3 CIK Number of registrant.
Item A.4 LEI of registrant.
Item A.5 Name of series.
Item A.6 EDGAR Series Identifier.
Item A.7 LEI of series.
Item A.8 Securities Act File Number.
Item A.9 Provide the name, email address, and telephone number of the person authorized to receive information and respond to questions about this Form N–CR.

* * * * *

Part C: Provision of Financial Support to Fund

If an affiliated person, promoter, or principal underwriter of the fund, or an affiliated person of such a person, provides any form of financial support to the fund (including any (i) capital contribution, (ii) purchase of a security from the fund in reliance on § 270.17a–9, (iii) purchase of any defaulted or devalued security at par, (iv) execution of letter of credit or letter of indemnity, (v) capital support agreement (whether or not the fund ultimately received support), (vi) performance guarantee, or (vii) any other similar action reasonably intended to increase or stabilize the value or liquidity of the fund's portfolio; excluding, *however,* any (i) routine waiver of fees or reimbursement of fund expenses, (ii) routine inter-fund lending (iii) routine inter-fund purchases of fund shares, or (iv) any action that would qualify as financial support as defined above, that the board of directors has otherwise determined not to be reasonably intended to increase or stabilize the value or liquidity of the fund's portfolio), disclose the following information:

Item C.1 Description of nature of support.
Item C.2 Person providing support.
Item C.3 Brief description of relationship between the person providing support and the fund.
Item C.4 Date support provided.
Item C.5 Amount of support.
Item C.6 Security supported (if applicable). Disclose the name of the issuer, the title of the issue (including coupon or yield, if applicable), at least two identifiers, if available (*e.g.,* CUSIP, ISIN, CIK, LEI), and the date the fund acquired the security.
Item C.7 Value of security supported on date support was initiated (if applicable).
Item C.8 Brief description of reason for support.
Item C.9 Term of support.
Item C.10 Brief description of any contractual restrictions relating to support.

Instruction. If an affiliated person, promoter, or principal underwriter of the fund, or an affiliated person of such a person, purchases a security from the fund in reliance on § 270.17a–9, the fund must provide the purchase price of the security in responding to Item C.6.

A report responding to Items C.1 through C.7 is to be filed within one business day after occurrence of an event contemplated in this Part C. An amended report responding to Items C.8 through C.10 is to be filed within four business days after occurrence of an event contemplated in this Part C.

* * * * *

Part E: Liquidity Threshold Events

If a fund has invested less than: (i) 25% of its total assets in weekly liquid assets or (ii) 12.5% of its total assets in daily liquid assets, disclose the following information:

Item E.1 Initial date on which the fund invested less than 25% of its total assets in weekly liquid assets, if applicable.
Item E.2 Initial date on which the fund invested less than 12.5% of its total assets in daily liquid assets, if applicable.
Item E.3 Percentage of the fund's total assets invested in both weekly liquid assets and daily liquid assets as of any dates reported in Items E.1 or E.2.
Item E.4 Brief description of the facts and circumstances leading to the fund investing less than 25% of its total assets in weekly liquid assets or less than 12.5% of its total assets in daily liquid assets, as applicable.

Instruction. A report responding to Items E.1, E.2, and E.3 is to be filed within one business day after occurrence of an event contemplated in this Part E. An amended report responding to Item E.4 is to be filed within four business days after occurrence of an event contemplated in this Part E.

Part F: Optional Disclosure

If a fund chooses, at its option, to disclose any other events or information not otherwise required by this form, it may do so under this Item F.1.

Item F.1 Optional disclosure.

Instruction. Item F.1 is intended to provide a fund with additional flexibility, if it so chooses, to disclose any other events or information not otherwise required by this form, or to supplement or clarify any of the disclosures required elsewhere in this form. Part F does not impose on funds any affirmative obligation. A fund may file a report on Form N–CR responding to Part F at any time.

* * * * *

By the Commission.

Dated: December 15, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–27532 Filed 2–7–22; 8:45 am]

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