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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0155; Airspace Docket No. 20–ASO–4]

RIN 2120–AA66

Establishment of Class E Airspace; Wiggins, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** of May 23, 2022, that modifies Establishment of Class E airspace at Dean Griffin Memorial Airport, Wiggins, MS. The geographic coordinates of the airport are amended to be in concert with the FAA's aeronautical database.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2020–0155 (87 FR 31132, May 23, 2022), establishing Class E airspace at the Dean Griffin Memorial Airport, Wiggins, MS. Subsequent to publication, the FAA identified an error that the geographic coordinates of the airport need to be amended to be in concert with the FAA's aeronautical database. This correction changes the coordinates from ''(Lat. 30°54′35″ N)'' to read ''(Lat. 30°50′35″ N)''.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of May 23, 2022 (87 FR 31132) FR Doc. 2022–10940, Establishment of Class E Airspace; Wiggins, MS, is corrected as follows:

§ 71.1 [Corrected]

■ On page 31132, column 3, line 57; remove ''(Lat. 30°54′35″ N)'' and add in its place ''(Lat. 30°50′35″ N)''.

Issued in Fort Worth, Texas, on July 12, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–15213 Filed 7–15–22; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1231

[Docket No. CPSC–2015–0031]

Amendment to Incorporation by Reference in Safety Standard for High Chairs

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) previously published a consumer product safety standard for high chairs under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The CPSC mandatory standard incorporates by reference the ASTM voluntary standard for high chairs. ASTM recently updated this voluntary standard. Pursuant to the CPSIA, the updated ASTM standard will become the CPSC mandatory standard for high chairs effective July 23, 2022. The Commission is issuing a final rule to update the version of the standard that is incorporated by reference in its regulations to reflect the version that will be mandatory by operation of law under the CPSIA.

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

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–6820; email: *KWalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Provisions

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be ''substantially the same as'' the voluntary standard, or it may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission's rules when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision, or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

2. Safety Standard for High Chairs

In June 2018, under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for high chairs, codified in 16 CFR part 1231. The rule incorporated by reference ASTM F404–18, *Standard Consumer Safety Specification for High Chairs,* with no modifications. 83 FR 28358 (June 19, 2018). At the time the Commission

published the final rule, ASTM F404–18 was the current version of the voluntary standard.

In April 2019, ASTM notified CPSC that it had issued a revised standard for high chairs, ASTM F404–18a. In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the Commission determined that the updated standard did not improve the safety of high chairs and notified ASTM accordingly, thereby retaining ASTM F404–18 as the mandatory standard.[1]

In January 2021, ASTM again notified CPSC that it had issued a revised standard for high chairs, ASTM F404–20. The Commission allowed the revised standard to become the new mandatory standard for high chairs, effective July 3, 2021. The Commission published a direct final rule to update 16 CFR part 1231, incorporating by reference ASTM F404–20, with no modifications. 86 FR 17296 (Apr. 2, 2021).

On January 24, 2022, ASTM notified CPSC that it had again revised the voluntary standard for high chairs, approving ASTM F404–21 on November 15, 2021.[2] On April 22, 2022, the Commission voted on whether to accept the revised ASTM standard as the mandatory standard for high chairs.[3] The Commission did not reach a majority vote and, accordingly, no action was taken. As such, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F404–21 will become the mandatory consumer product safety standard for high chairs on July 23, 2022, 180 days after CPSC received notice of the ASTM update. 15 U.S.C. 2056a(b)(4)(B).

To align the Commission's regulations with the update that will take effect by operation of law, this final rule updates 16 CFR part 1231 to incorporate by reference ASTM F404–21.[4]

[1] CPSC staff's briefing package regarding ASTM F404–18a is available at: *https://www.cpsc.gov/s3fs-public/Update%20to%20Voluntary%20Standard%20for%20High%20Chairs.pdf.*

[2] ASTM published ASTM F404–21 in January 2022.

[3] CPSC staff's briefing package regarding ASTM F404–21 is available at: *https://www.cpsc.gov/s3fs-public/ASTMs-Revised-Safety-Standard-for-High-Chairs_0.pdf?VersionId=OQF17Ki4XDJr0GJJikxve5tPrGpZmuC8.* The Commission voted 2–2. Chair Hoehn-Saric and Commissioner Baiocco voted to approve publication of a direct final rule to update the mandatory standard to incorporate by reference ASTM F404–21; Commissioners Feldman and Trumka voted not to approve publication of the direct final rule. Chair Hoehn-Saric, Commissioner Feldman, and Commissioner Trumka issued statements with their votes.

[4] The Commission voted 5–0 to approve this notification.

B. Revisions to ASTM F404

The ASTM standard for high chairs includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to children associated with high chairs, including stability, structural integrity, trays, restraints, and entrapment. This section describes the changes in ASTM F404–21, as compared to ASTM F404–20, which is the current mandatory standard. ASTM F404–21 contains substantive revisions, as well as editorial, non-substantive revisions.

1. Substantive Revisions

ASTM F404–21 includes updates to section 7.7, Stability Testing, to clarify the design and placement of test weights, which are used to conduct forward, sideways, and rearward stability testing, prescribed in sections 7.7.2.5, 7.7.2.6, and 7.7.27 of the standard.

The first revision is in section 7.7.1 of the standard. This section states that the test weight is a ''steel weight'' with specified dimensions. In ASTM F404–20, note 11 to section 7.7.1 stated that the steel test weight size was designed to allow the use of eight stacked plates of standard, cold-rolled steel, with specified dimensions. In ASTM F404–21, note 11 has been revised to allow for the use of a solid steel block as the test weight, as an alternative to the stack of cold-rolled steel plates.

The second revision is in section 7.7.2.3, which specifies the placement of test weights on the seat. ASTM F404–20 specified that test weights were to be placed horizontally on the seat bottom with the longest dimension in the front-to-back direction and in contact with the seat back. In ASTM F404–21, section 7.7.2.3 and note 12 to that section have been revised so that when test weights cannot be centered on a seating surface when oriented horizontally, they may be oriented vertically on the seat to align the center of the test weights with the center of the seat.

The third revision relocated section 7.7.2.1 to section 7.7.2.4. This section specifies that, for high chairs that include a tray, the tray is to be adjusted to the rear position, closest to the seat back for stability testing. In ASTM F404–20, tray adjustment occurred at the beginning of the stability testing procedure before test weights were placed in the high chair. In ASTM F404–21, the tray adjustment occurs after the placement of test weights. The standard now specifies that, for high chairs that include a tray, the tray is to be adjusted to the rear position, closest to the seat back or until the tray comes into contact with the test weight on the seat.

2. Non-Substantive Revisions

ASTM F404–21 also includes minor additions and revisions that are editorial and do not alter any substantive requirements in the standard. These changes include revising section numbers referenced throughout the standard to reflect updated section numbers in section 7 of the standard; revising wording for clarity; adding conversions to metric units for certain measurements; and changing the phrase ''restraining system'' to ''restraint system,'' to be consistent with other standards.

C. Incorporation by Reference

Section 1231.2 of the final rule incorporates by reference ASTM F404–21. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section B. Revisions to ASTM F404 of this preamble summarizes the major provisions of ASTM F404–21 that the Commission incorporates by reference into 16 CFR part 1231. The standard is reasonably available to interested parties. Until the final rule takes effect, a read-only copy of ASTM F404–21 is available for viewing, at no cost, on ASTM's website at: *https://www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: *cpsc-os@cpsc.gov.* Interested parties can purchase a copy of ASTM F404–21 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; telephone: (610) 832–9585; *www.astm.org.*

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because high chairs are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1231 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[5] the phthalates prohibitions in section 108 of the CPSIA [6] and 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,[7] and the consumer registration form requirements in section 104(d) of the CPSIA.[8]

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing high chairs. 83 FR 28358 (June 19, 2018). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing high chairs to 16 CFR part 1231. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies,'' codified in 16 CFR part 1112. *Id.*

ASTM F404–21 includes revised requirements for testing high chairs. However, these revisions to test requirements do not require additional equipment or significant changes to existing test protocols. The change to test weight design provides an alternative to the existing requirement, and the changes to test weight orientation and tray adjustment alter only the timing and placement of features during existing test procedures. Accordingly, the revisions do not significantly change the way that third party conformity assessment bodies test these products for compliance with the safety standard for high chairs. Laboratories will begin testing to the new standard when ASTM F404–21 takes effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F404–20 to be capable of testing to ASTM F404–21 as well. The existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

F. Good Cause for Immediate Adoption

The Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule, an opportunity for interested parties to comment on it, and that the rule be published at least 30 days before its effective date. 5 U.S.C. 553(b), (c), (d). However, under section 553(b)(3)(B) of the APA, the notice and comment requirement does not apply when an agency ''for good cause finds'' that notice and comment procedures are ''impracticable, unnecessary, or contrary to the public interest'' and includes such finding and a brief statement of supporting reasons in the rule. In addition, section 553(d)(3) of the APA allows an agency, upon finding good cause and publishing it with the rule, to make a rule effective earlier than the 30-day delay required in the statute.

As discussed above, this final rule updates the Commission's regulations to reflect a revision to the mandatory standard that automatically will take effect by operation of law under the CPSIA. Specifically, under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104 of the CPSIA, that revision will become the new mandatory CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product and so notifies ASTM. Thus, if the Commission does not take these steps to reject an update, the ASTM revision becomes CPSC's standard by operation of law. Because the Commission did not notify ASTM that it was rejecting ASTM F404–21 within 90 days of notification, the revised standard will become mandatory by operation of law on July 23, 2022.

The purpose of this final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that will take effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F404–21 will take effect as the new CPSC standard for high chairs, even if the Commission does not issue this rule. Because the update will take effect by operation of law, this final rule does not substantively alter the mandatory standard; rather, it aligns the regulations with the statutory mandate that takes effect on July 23, 2022. As such, public comments would not alter the substance of the standard or the effect of the revised standard as a consumer product safety standard under section 104 of the CPSIA. Therefore, the Commission finds that notice and public comment on this final rule are unnecessary.

In addition, the Commission finds good cause to make this rule effective on July 23, 2022, rather than providing a 30-day delay before the effective date. If the update to the regulations is delayed, the regulations will not reflect the correct version of the ASTM standard that is mandatory, making the regulations inaccurate and potentially confusing for regulated entities. Moreover, because this final rule merely updates the regulations to reflect a statutory change to the mandatory standard, a delayed effective date is unnecessary, as regulated entities will have to comply with the revised standard as of July 23, 2022, regardless of whether the regulations have been updated. Therefore, the Commission finds good cause to make this final rule effective on July 23, 2022.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section F. Good Cause for Immediate Adoption of this preamble, the Commission has determined that notice and the opportunity to comment are

[5] 15 U.S.C. 1278a.

[6] 15 U.S.C. 2057c.

[7] 15 U.S.C. 2063(a)(5).

[8] 15 U.S.C. 2056a(d).

unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that will take effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The mandatory standard for high chairs includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The updated mandatory standard does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1231, including obtaining approval and a control number. Because the information collection is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product and so notifies the standards organization, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). Because the Commission did not notify ASTM that it was rejecting the update or set a later effective date, ASTM F404–21 will take effect as the new mandatory standard for high chairs on July 23, 2022, 180 days after January 24, 2022, when the Commission received notice of the revision.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1231

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1231—SAFETY STANDARD FOR HIGH CHAIRS

■ 1. The authority citation for part 1231 continues to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a); Sec 3, Pub. L. 112–28, 125 Stat. 273.

■ 2. Revise § 1231.2 to read as follows:

§ 1231.2 Requirements for high chairs.

Each high chair shall comply with all applicable provisions of ASTM F404–21, *Standard Consumer Safety Specification for High Chairs,* approved on November 15, 2021. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/READINGLIBRARY/.* You may obtain a copy from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959; telephone (610) 832–9585; *www.astm.org.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email *cpsc-os@cpsc.gov,* or 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: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–15267 Filed 7–15–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 22–15]

RIN 1515–AE74

Extension and Amendment of Import Restrictions on Archaeological and Ethnological Material From Cyprus

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

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension and amendment of import restrictions on Pre-Classical and Classical archaeological objects, and Byzantine and Post-Byzantine ecclesiastical and ritual ethnological materials of the Republic of Cyprus. To fulfill the terms of the new agreement, titled ''Agreement Between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of the Republic of Cyprus'', the Designated List, which was last described in CBP-Dec. 12–13, is amended in this document to reflect additional categories of archaeological

material from an extended date range from the end of the Classical Period to A.D. 1770 and additional categories of ethnological material including architectural material, documents and manuscripts, traditional clothing, and emblems of the state.

DATES: Effective July 14, 2022.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, *otrculturalproperty@cbp.dhs.gov.* For operational aspects, Julie L. Stoeber, Chief, 1USG Branch, Trade Policy and Programs, Office of Trade, (202) 945–7064, *1USGBranch@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et seq.,* which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with the Republic of Cyprus (''Cyprus'') on July 16, 2002, concerning the imposition of import restrictions on certain archaeological materials representing the Pre-Classical and Classical periods of Cyprus, ranging in date from approximately the 8th Millennium B.C. to approximately A.D. 330 (''the 2002 Agreement'').

On July 19, 2002, the former U.S. Customs Service (U.S. Customs and Border Protection's predecessor agency) published Treasury Decision (T.D.) 02–37 in the **Federal Register** (67 FR 47447), which amended § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions and included a list designating the types of archaeological and ethnological material covered by the restrictions.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of no more than five years if it is determined that the factors which justified the agreement still pertain and no cause for suspension of the agreement exists. *See* 19 CFR 12.104g(a).

Since the initial final rule was published on July 19, 2002, the import restrictions were subsequently extended and/or amended five (5) times. First, on August 17, 2006, the Republic of Cyprus and the United States amended the 2002 Agreement (covering Pre-Classical and Classical archeological materials) to include Byzantine ecclesiastical and ritual ethnological materials dating from approximately the 4th century A.D. through approximately the 15th century A.D. that had been (and, at that time, were still) protected pursuant to an emergency action which was published in the **Federal Register** (64 FR 17529) on April 12, 1999. The amendment of the 2002 Agreement to cover both the archaeological materials and the ethnological materials was reflected in CBP Dec. 06–22, which was published in the **Federal Register** (71 FR 51724) on August 31, 2006. CBP Dec. 06–22 contained the list of Byzantine ecclesiastical and ritual ethnological materials from Cyprus previously protected pursuant to the emergency action and announced that import restrictions, as of August 31, 2006, were imposed on this cultural property pursuant to the amended Agreement (19 U.S.C. 2603(c)(4)). Thus, as of that date, the import restrictions covering materials described in CBP Dec. 06–22 were set to be effective through July 15, 2007.

Second, on July 13, 2007, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 07–52) in the **Federal Register** (72 FR 38470) to extend the import restrictions for an additional five-year period.

Third, on July 13, 2012, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 12–13) in the **Federal Register** (77 FR 41266) amending CBP regulations to reflect the extension of import restrictions for an additional five-year period and also to cover Post-Byzantine ecclesiastical and ritual ethnological materials of Cyprus ranging from approximately A.D. 1500 to approximately A.D. 1850.

Fourth, on August 1, 2012, CBP published a correcting amendment to CBP Dec. 12–13 in the **Federal Register** (77 FR 45479), because the amended Designated List and the regulatory text in the July 13, 2012 document contained language which was inadvertently inconsistent with the remainder of the document as to the historical period that the import restrictions cover for ecclesiastical and ritual ethnological materials from Cyprus.

Fifth and lastly, on July 14, 2017, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 17–07) in the **Federal Register** (82 FR 32452) to extend the import restrictions for an additional five-year period through July 15, 2022.

On September 13, 2021, the United States Department of State proposed in the **Federal Register** (86 FR 50931) to extend and amend the agreement between the United States and Cyprus concerning the import restrictions on certain categories of archaeological and ethnological material from Cyprus. On April, 1, 2022, after consultation with and recommendations by the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that: (1) the cultural heritage of Cyprus continues to be in jeopardy from pillage of certain archeological and ethnological material currently covered and that the import restrictions should be extended for an additional five years; and (2) the cultural heritage of Cyprus is in jeopardy from pillage of additional categories of archaeological material dating from the end of the Classical Period to A.D. 1770 and additional categories of ethnological material including architectural material, documents and manuscripts, traditional clothing, and emblems of the state, and that import restrictions on such types of archaeological and ethnological material should be imposed. Pursuant to the new agreement, the existing import restrictions will remain in effect for an additional five years through July 13, 2027, along with the imposition of additional import restrictions on new categories of archaeological and ethnological material, which will also be effective for a five-year period through July 13, 2027.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions and amending the Designated List of cultural property described in CBP Dec. 12–13 with the addition of new categories of archaeological and ethnological material. The restrictions on the importation of archaeological material and ethnological material continue to be in effect through July 13, 2027. Importation of such material from Cyprus continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: *https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions* by selecting the material for ''Cyprus.''

Designated List of Archaeological and Ethnological Material of Cyrus

The Designated List contained in CBP Dec. 12–13, which describes the types of articles to which the import restrictions apply, is amended to reflect the inclusion of additional categories of archaeological and ethnological material in the Designated List. In order to clarify certain provisions of the Designated List contained in CBP Dec. 12–13, the amendment also includes minor revisions to the language and numbering of the Designated List. For the reader's convenience, CBP is reproducing the Designated List contained in CBP Dec. 12–13 in its entirety, with the changes, below.

The Designated List includes archaeological material from Cyprus ranging in date from approximately the 11th millennium B.C. to A.D. 1770, and ethnological material from Cyprus ranging in date from approximately the 4th century A.D. to A.D. 1878.

Categories of Archaeological and Ethnological Material

I. Archaeological Material
- A. Ceramic
- B. Stone
- C. Metal
- D. Glass, Faience, and Enamel
- E. Ivory, Bone, Shell, Wood, and Other Organics

II. Ethnological Material
- A. Ecclesiastical Ritual and Ceremonial Objects
- B. Emblems of the State
- C. Structural and Decorative Architectural Material
- D. Documents and Manuscripts
- E. Traditional Clothing and Textiles

I. Archaeological Material

Archaeological material includes categories of objects ranging in date from approximately the 11th millennium B.C. to A.D. 1770.

A. Ceramic

1. Vessels.

a. Neolithic and Chalcolithic (c. 8800–2300 B.C.)—Bowls and jars, including spouted vessels. Varieties include Combed ware, Black Lustrous ware, Red Lustrous ware, and Red-on-White painted ware. Approximately 10–24 cm in height.

b. Early Bronze Age (c. 2300–1850 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, and specialized forms, such as askoi, pyxides, gourd-shape, multiple-body vessels, and vessels with figurines attached. Cut-away spouts, multiple spouts, basket handles, and round bases commonly occur. Incised, punctured, molded, and applied ornament, as well as polishing and slip, are included in the range of decorative techniques. Approximately 13–60 cm in height.

c. Middle Bronze Age (c. 1850–1550 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, zoomorphic askoi, bottles, amphorae, and amphoriskoi. Some have multiple spouts and basket or ribbon handles. Decorative techniques include red and brown paint, incised or applied decoration, and polishing. Varieties include Red Polished ware, White Painted ware, Black Slip ware, Red Slip ware, and Red-on-Black ware. Approximately 4–25 cm in height.

d. Late Bronze Age (c. 1550–1050 B.C.)—Forms include bowls, jars, lamps, jugs and juglets, tankards, rhyta, bottles, kraters, alabastra, stemmed cups, cups, stirrup jars, amphorae, and amphoriskoi. A wide variety of spouts, handles, and bases are common. Zoomorphic vessels also occur. Decorative techniques include painted design in red or brown, polishing, and punctured or incised decoration. Varieties include White Slip, Base Ring ware, White Shaved ware, Red Lustrous ware, Bichrome Wheel-made ware, and Proto-White Painted ware. Some examples of local or imported Mycenaean Late Helladic III have also been found. Approximately 5–50 cm in height.

e. Cypro-Geometric I–III (c. 1050–750 B.C.)—Forms include bowls, lamps, jugs, juglets, jars, cups, skyphoi, amphorae, amphoriskos, and tripods. A variety of spouts, handles and base forms are used. Decorative techniques include paint in dark brown and red, ribbing, polish, and applied projections. Varieties include White Painted I–III wares, Black Slip I–III wares, Bichrome II–III wares, and Black-on-Red ware. Approximately 7–30 cm in height.

f. Cypro-Archaic I–II (c. 750–475 B.C.)—Forms include bowls, lamps, plates, jugs and juglets, cups, kraters, amphoriskoi, oinochoai, and amphorae. Many of the forms are painted with bands, lines, concentric circles, and other geometric and floral patterns. Animal designs occur in the Free Field style. Molded decoration in the form of female figurines may also be applied. Red and dark brown paint is used on Bichrome ware. Black paint on a red polished surface is common on Black-on-Red ware. Other varieties include Bichrome Red, Polychrome Red, and Plain White. Approximately 12–45 cm in height.

g. Cypro-Classical I–II (c. 475–325 B.C.)—Forms include bowls, shallow dishes, lamps, jugs and juglets, oinochoai, and amphorae. The use of painted decoration in red and brown, as well as blue/green and black continues. Some vessels have molded female figurines applied. Decorative designs include floral and geometric patterns. Burnishing also occurs. Varieties include Polychrome Red, Black-on-Red, Polychrome Red, Stroke Burnished, and White Painted wares. Approximately 6–40 cm in height.

h. Hellenistic (c. 325 B.C.–50 B.C.)—Forms include bowls, dishes, cups, unguentaria, lamps, jugs and juglets, pyxides, amphorae, pithoi, and cooking pots. Most of the ceramic vessels of the period are undecorated. Those that are decorated use red, brown, or white paint in simple geometric patterns. Ribbing is also a common decorative technique. Some floral patterns are also used. Varieties include Glazed Painted ware and Glazed ware. Imports include Eastern Sigillata and ''Megarian'' mould-made relief bowls. Approximately 5–25 cm in height.

i. Roman (c. 50 B.C.–A.D. 330)—Forms include bowls, dishes, cups, lamps, jugs and juglets, unguentaria, amphorae, and cooking pots. Decorative techniques include incision, embossing, molded decoration, grooved decoration, and paint. Varieties include Terra Sigillata and Glazed and Green Glazed wares. Approximately 5–55 cm in height.

j. Byzantine and Medieval Frankish, Lusignan, and Venetian (c. A.D. 330–1570)—Forms include undecorated plain wares, utilitarian, tableware, serving and storage jars, lamps, special shapes such as pilgrim flasks, and can be matte painted or glazed, including incised ''sgraffitto'' and stamped with elaborate polychrome decorations using floral, geometric, human, and animal motifs.

k. Ottoman (c. A.D. 1570–1770)—Early examples include green and turquoise vessels that may be in the vessel shapes mentioned above. In addition, this type includes inkstands, chalices, lamps, rose water flasks, censers, incense cases, kitchenware, and tableware. Sizes and shapes are varied; colors include blue-white, red, blue, yellow, purple, and green and may include floral or other painted or inscribed decorations.

2. Sculpture.

a. Terracotta Figurines (Small Statuettes).

i. Neolithic to Late Bronze Age (c. 8800–1050 B.C.)—Figurines are small, hand-made, and schematic in form. Most represent female figures, often standing and sometimes seated and giving birth or cradling an infant. Features and attributes are marked with incisions or paint. Figurines occur in Red-on-White ware, Red Polished ware,

Red-Drab Polished ware, and Base Ring ware. Approximately 10–25 cm in height.

ii. Cypro-Geometric to Cypro-Archaic (c. 1050–475 B.C.)—Figurines show a greater diversity of form than earlier figurines. Female figurines are still common, but forms also include male horse-and-rider figurines; warrior figures; animals such as birds, bulls and pigs; tubular figurines; boat models; and human masks. In the Cypro-Archaic period, terra cotta models illustrate a variety of daily activities, including the process of making pottery and grinding grain. Other examples include musicians and men in chariots. Approximately 7–19 cm in height.

iii. Cypro-Classical to Roman (c. 475 B.C.–A.D. 330)—Figurines mirror the classical tradition of Greece and Roman. Types include draped women, nude youths, and winged figures. Approximately 9–20 cm in height.

b. Large Scale Terracotta Figurines—Dating to the Cypro-Archaic period (c. 750–475 B.C.), full figures about half life-size, are commonly found in sanctuaries. Illustrated examples include the head of a woman decorated with rosettes and a bearded male with spiral-decorated helmet. Approximately 50–150 cm in height.

c. Funerary Statuettes—Dating to the Cypro-Classical period (c. 475–325 B.C.), these illustrate both male and female figures draped, often seated, as expressions of mourning. Approximately 25–50 cm in height.

d. Architectural Elements—Baked clay (terracotta) elements used to decorate buildings, these elements include tiles, acroteria, antefixes, painted and relief plaques, metopes, cornices, roof tiles, pipes, and revetments, as well as wall and floor decorations in plaster. This category also includes wall brackets and wall-mounted lamps.

3. Inscriptions—Writing on clay either fired or unfired from the Late Bronze Age to the Ottoman period. These include inscribed tablets, weights, clay balls, inscribed handles, sling bullets, or parts of ceramic vessels.

4. Seals—Dating from the Neolithic (7500 B.C.) through the Ottoman period, conical seals, scarabs, cylinder seals, and bread stamps are incised with geometric decoration, pictorial scenes, and inscriptions. Approximately 2–12 cm in height.

5. Loom Weights and Spindle Whorls—From the early Bronze Age through the Ottoman period, shapes include conical, pyramidal, disc or rings. These can be stamped, incised, or glazed.

6. Sarcophagi—From the Archaic to the Medieval period. Some have figural scenes painted on them, others have figural scenes carved in relief, and some just have decorative moldings. Approximate date: c. 700 B.C. to A.D. 1500.

7. Pipes—Clay smoking pipes from the Medieval and Ottoman periods, including partial pipes such as stems and bowls.

B. Stone

1. Vessels—Ground stone vessels occur from the Epipaleolithic to the Ottoman period (c. 11,000 B.C.–A.D. 1770). Early vessels are from various stones including diabase, basalt, limestone, alabaster, marble, or other stone. Most are bowl-shaped; some are trough-shaped with spouts and handles. Neolithic vessels often have incised or perforated decoration. Late Bronze Age vessels include amphoriskoi and kraters with handles. Sometimes these have incised decoration. Alabaster was also used for stone vessels in the Late Bronze Age and Hellenistic period. In the latter period, stone vessels are produced in the same shapes as ceramic vessels: amphorae, unguentaria, etc. Approximately 10–30 cm in height.

2. Sculpture.

a. Neolithic to Late Bronze Age (c. 8800–1250 B.C.)—Forms include small scale human heads, fiddle-shaped human figures, steatopygous female figures, anthropomorphic cruciform figurines with incised decoration, and animal figures. Diabase, limestone, and picrolite are commonly used in these periods. Approximately 5–30 cm in height.

b. Cypro-Geometric to Cypro-Classical (c. 1050–325 B.C.)—Small scale to life-size human figures, whole and fragments, in limestone and marble, are similar to the Classical tradition in local styles. Examples include the limestone head of a youth in Neo-Cypriote style, votive female figures in Proto-Cypriot style, a kouros in Archaic Greek style, statues and statuettes representing Classical gods such as Zeus and Aphrodite, as well as portrait heads of the Greek and Roman periods. Approximately 10–200 cm in height.

c. Later Period Statuary (c. 325 B.C.–A.D. 1770)—Both large and small, in marble, limestone, sandstone, and other stone. Subject matter includes human, animal, and mythological figures and groups of figures in the round, in relief, or as inlay, as well as floral, vegetal and abstract elements, including fragments of statues.

3. Architectural Elements—Sculpted stone building elements occur from the 12th century B.C. through the Ottoman period. These include columns and column capitals, relief decoration, chancel panels, window frames, revetments, offering tables, coats of arms, and gargoyles. These include parts from funerary, religious, domestic, or administrative buildings or structures in different kinds of stone (*e.g.,* limestone and marble).

4. Seals—Dating from the Neolithic (7500 B.C.) through the Ottoman period, conical seals, scarabs, cylinder seals, and bread stamps are incised with geometric decoration, pictorial scenes, and inscriptions. Approximately 2–12 cm in height.

5. Amulets, Pendants, and Beads—Dating from the Epipaleolithic up to A.D. 1770 and made from different types of stone (*e.g.,* picrolite). Approximately 4–5 cm in length.

6. Inscriptions—Inscribed stone materials date from the 6th century B.C. through A.D. 1770. Funerary and votive plaques and stelae, mosaic floors, and building plaques were inscribed. This category also includes inscribed tombstones or other funerary or religious monuments, milestones, etc.

7. Funerary Stelae (Uninscribed) and Sarcophagi—From the Archaic to the Ottoman period, marble, limestone, and other stone sculptural monuments have relief decoration of animals or human figures seated or standing. Stone coffins also have relief decoration. Approximately 50–155 cm in height.

8. Floor Mosaics—Floor mosaics date as early as the 4th century B.C. in domestic and public contexts and continue to be produced through the 3rd century A.D. Examples include the mosaics at Nea Paphos, Kourion, and Kouklia.

9. Tools and Weapons—Starting in the Epipaleolithic, this category includes flint, obsidian, and other hard stones. Chipped stone types include blades, small blades, borers, scrapers, sickles, cores, arrow heads, and spindle whorls. Ground stone types include grinders (*e.g.,* mortars, pestles, millstones, whetstones), choppers, axes, hammers, and mace heads. This category also includes tools such as loom weights and spindle whorls.

C. Metal

1. Copper/Bronze.

a. Vessels and Utensils—Dating from the Bronze Age (c. 2300 B.C.) through A.D. 1770, bronze vessel forms include bowls, cups, amphorae, jugs, juglets, pyxides, dippers, lamp stands, dishes, and plates. Approximately 4–30 cm in height.

b. Bronze Stands—Dating from the Late Bronze Age (c. 1550 B.C.) through the end of the Classical period (c. 325

B.C.), are bronze stands with animal and other decoration.

c. Sculpture—Dating from the Late Bronze Age (c. 1550) to the end of the Hellenistic period (c. 50 B.C.), small figural sculpture includes human forms with attached attributes such as spears or goblets, animal figures, animal- and vessel-shaped weights, and Classical representations of gods and mythological figures. This category also includes statuettes and statues of votive or religious nature. Approximately 5–25 cm in height.

d. Jewelry and Personal Objects—Dating from the Early Bronze Age (c. 2300 B.C.) to the end of the Roman period (A.D. 330), forms include toggle pins, straight pins, fibulae, and mirrors.

2. Silver.

a. Vessels—Dating from the Bronze Age (c. 2300 B.C.) through the end of the Roman period (A.D. 330), forms include bowls, dishes, coffee services, and ceremonial objects such as incense burners. These are often decorated with molded or incised geometric motifs or figural scenes.

b. Jewelry and Personal Objects—Starting from the Late Bronze Age (c. 2300 B.C.), forms include fibulae, rings, bracelets, and spoons.

3. Gold Jewelry and Personal Objects—Gold jewelry has been found on Cyprus starting in the Early Bronze Age (c. 2300 B.C.). Items include hair ornaments, bands, wreaths, frontlets, pectorals, earrings, necklaces, rings, pendants, plaques, beads, and bracelets.

4. Coins of Cypriot Types.

Coins of Cypriot types made of gold, silver, and bronze including but not limited to:

a. Issues of the ancient kingdoms of Amathus, Kition, Kourion, Idalion, Lapethos, Marion, Paphos, Soli, and Salamis dating from the end of the 6th century B.C. to 332 B.C.

b. Issues of the Hellenistic period, such as those of Paphos, Salamis, and Kition from 332 B.C. to c. 30 B.C.

c. Provincial and local issues of the Roman period from c. 30 B.C. to A.D. 235. Often these have a bust or head on one side and the image of a temple (the Temple of Aphrodite at Palaipaphos) or statue (statue of Zeus Salaminios) on the other.

d. Byzantine, Medieval Frankish, Lusignan, Venetian, and Ottoman types that circulated primarily in Cyprus, ranging in date from A.D. 235 to 1770. Coins were made in copper, bronze, silver, and gold. Examples are generally round, have writing, and show imagery of animals, buildings, symbols, or royal or imperial figures.

5. Tools—In copper, bronze, iron, silver, gold, and lead. Types include hooks, weights, ingots, axes, scrapers (strigils), trowels, keys; the tools of craftspersons such as carpenters, masons and metal smiths; and medical tools such as needles, spoons, lancets, and forceps.

6. Seals and Tokens—In lead, tin, copper, bronze, silver, and gold. Types include rings, amulets, and seals with shank.

7. Weapons and Armor—In copper, bronze, iron, and lead. Types include both launching weapons (spears and javelins) and weapons for hand-to-hand combat (swords, daggers, etc.). Armor includes body armor, such as helmets, cuirasses, shin guards, and shields, and horse armor often decorated with elaborate engraved, embossed, or perforated designs.

8. Vessels—In bronze, gold, and silver. These may belong to conventional shapes such as bowls, cups, jars, jugs, strainers, cauldrons, and lamps, or may occur in the shape of an animal or part of an animal.

D. Glass, Faience, and Enamel

1. Vessels—Shapes include small jars, lamps, bowls, animal shaped, goblet, spherical, candle holders, and perfume jars (unguentaria).

2. Beads, Seals, and Spindle Whorls—Globular and relief beads, other jewelry, seals, and spindle whorls.

3. Small Statuary—Includes human and animal figures in the round, scarabs, and other imitations of eastern themes. These range from approximately 3 to 20 cm in height.

E. Ivory, Bone, Shell, Wood, and Other Organics

1. Small Statuary and Figurines—Usually in ivory or wood. Subject matter includes human and animal figures and groups of figures in the round or as part of composite objects. These range from approximately 10 cm to 1 m in height.

2. Personal Ornaments—In bone, ivory, and shell. Types include amulets, combs, pins, spoons, small containers, necklaces, bracelets, buckles, and beads.

3. Seals and Stamps—Small devices usually in ivory with at least one side engraved with a design for stamping or sealing; they can be discoid, cuboid, conoid, or in the shape of animals or fantastic creatures (*e.g.,* a scarab).

4. Tools—Including needles, handles, spatulae, and spindle whorls.

5. Vessels—Often decorated with an incised scene (*e.g.,* geometric, animal, human, etc.), and including boxes and lids.

6. Furniture—Bone and ivory furniture inlays and veneers.

7. Ships and Vehicles—This includes whole ships and vehicles or pieces used in composing a ship, chariot, or other vehicle; typically in wood.

II. Ethnological Material

Ethnological material covered by the agreement includes ecclesiastical ritual and ceremonial objects, emblems of the state, structural and decorative architectural material, documents and manuscripts, and traditional clothing that contribute to the knowledge of the origins, development, and history of the Cypriot people. This includes objects from the 4th century A.D. starting in the Byzantine Period and ending in A.D. 1878 with the British Protectorate.

A. Ecclesiastical Ritual and Ceremonial Objects

1. Metal.

a. Bronze—Ceremonial objects include icons, small figural sculpture, crosses, censers (incense burners), rings, and buckles for ecclesiastical garments. The objects may be decorated with engraved or modeled designs or Greek inscriptions. Crosses, rings and buckles are often set with semi-precious stones.

b. Lead—Lead objects include ampulla (small bottle-shaped forms) used in religious observance.

c. Silver and Gold—Ceremonial vessels and objects used in ritual and as components of church treasure. Ceremonial objects include icons, censers (incense burners), book covers, liturgical crosses, archbishop's crowns, buckles, and chests including reliquaries. These are often decorated with molded or incised geometric motifs or scenes from the Bible, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Church treasure may include all of the above, as well as rings, earrings, and necklaces (some decorated with ecclesiastical themes) and other implements (*e.g.,* spoons).

2. Wood—Artifacts made of wood are primarily those intended for ritual or ecclesiastical use. These include painted icons, painted wood screens (iconostases), carved doors, crosses, painted wooden beams from churches or monasteries, thrones, chests including reliquaries, and musical instruments. Religious figures (Christ, the Apostles, the Virgin, and others) predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs.

3. Ivory and Bone—Ecclesiastical and ritual objects of ivory and bone boxes, plaques, pendants, candelabra, stamp rings, crosses, and relics. Carved and engraved decoration includes religious

figures, scenes from the Bible, and floral and geometric designs.

4. Glass—Ecclesiastical objects such as lamps and ritual vessels.

5. Textiles and Ritual Garments—Ecclesiastical garments and other ritual textiles. Robes, vestments and altar clothes are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and floral and geometric designs.

6. Stone.

a. Wall Mosaics—Wall mosaics are found in ecclesiastical buildings. These generally portray images of Christ, Archangels, the Apostles, and Saints in scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs.

b. Floor Mosaics—Floor mosaics from ecclesiastical contexts. Examples include the mosaics at Nea Paphos, Kourion, Kouklia, Chrysopolitissa Basilica and Campanopetra Basilica. Floor mosaics may have animal, floral, geometric designs, or inscriptions.

7. Funerary Objects—This category includes objects related to funerary rites and burials in all materials. Examples of funerary objects include, but are not limited to, the following objects:

a. Sepulchers—Sepulchers are repositories for remains of the dead, primarily in stone (usually limestone or marble), but also in metal and wood. Types of burial containers include sarcophagi, caskets, coffins, and urns. These may also have associated sculpture in relief or in the round. May be plain or have figural, geometric, or floral motifs either painted or carved in relief. May also contain human or animal remains.

b. Inscriptions, Memorial Stones, Epitaphs, and Tombstones—This category includes inscribed funerary objects, primarily slabs in limestone, marble, and ceramic; engraved in a variety of languages and scripts. These may also have associated sculpture in relief or in the round.

8. Frescoes/Wall Paintings—Wall paintings from religious structures (churches, monasteries, chapels, etc.). Like the mosaics, wall paintings generally portray images of Christ, Archangels, the Apostles, and Saints in scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs.

B. Emblems of the State

This category includes items that provide information on periods of social and political history of the people of Cyprus from the Byzantine Period through the end of the Ottoman Period that may be absent from written records.

1. Clothing—Ceremonial garments, clothing emblematic of imperial, court, or government position, and other accessories thereof such as shoes, headdresses and hats, belts, and jewelry.

2. Weapons and Armor.

a. Weapons—These are often in iron, steel, or other metal. This category includes arrows, daggers, swords, saifs, scimitars, other blades with or without sheaths, spears, and pre-industrial firearms and cannon; may be for use in combat or ceremonial. May be inlaid with gemstones, embellished with silver or gold, or engraved with floral or geometric motifs. Grips or hilts may be made of metal, wood, or semi-precious stones such as agate, or bound with leather.

b. Armor—Armor may consist of small metal scales, originally sewn to a backing of textile or leather. This type also includes helmets, body armor, shields, and horse armor. Other objects may be made of leather, including archer's bags, shields, and masks.

c. Auxiliary Objects and Vehicles—Powder horns and belts; military standards; and boats, chariots, or other means of official or military transportation, and parts thereof.

3. Ceremonial Objects and Containers—Objects of imperial, court, or government office such as scepters, staffs, insignia, relics, and monumental boxes, trays, and containers.

4. Stamps, Seals, and Writing Instruments—Stamps, seals including seal rings, and writing implements for official use by the state.

5. Wall Hangings and Flags—Often in silk or linen, tapestries, wall hangings, and other representations and emblems of the imperial court; flags, banners, flagstaffs, and finials.

6. Musical Instruments—This category includes instruments important for state ceremonies, such as drums of various sizes in leather, metal instruments, such as cymbals and trumpets, and wooden instruments.

C. Structural and Decorative Architectural Material

This category includes architectural elements and decoration from religious and public buildings. These buildings are comparatively rare due to the combination of historical influences on the island of Cyprus, including successive cycles of Arab and Byzantine conquest, occupation during the Medieval Crusades, and a period of Ottoman influence.

1. Structural Material—Usually in stone, plaster, metal, or wood, including blocks; columns, capitals, bases, lintels, jambs, friezes, and pilasters; panels, doors, door frames, and window fittings; altars, prayer niches (mihrab), screens, iconostasis, fountains, ceilings, tent poles, and carved and molded brick.

2. Relief and Inlay Sculpture—Usually in stone or plaster, includes relief and inlay sculpture such as appliques and plaques that may have been part of a building. May be plain, molded, carved, or inscribed. Decorative motifs may be incised or in high relief.

3. Other Decorative Material—In stone, metal, wood, glass, and plaster. Metal elements are primarily in copper, brass, lead, and alloys, and may include doors, door fixtures, lathes, finials, chandeliers, screens, and sheets to protect domes. Glass elements include windows and mosaic tesserae in floors, walls, and ceilings.

D. Documents and Manuscripts

This category includes written records of religious, political, or scientific importance, including, but not limited to, the following:

1. Works on Papyrus, Parchment, Paper, or Leather—Papyrus documents are often rolled and/or fragmentary. Parchment and paper documents may be single leaves or bound as scrolls or books. Works on paper and parchment may have illustrations or illuminated paintings with gold or other colors. There are also examples of religious and/or rare books written on leather pages.

2. Containers and Covers—Boxes for books or scrolls made of wood or other organic materials, and book or manuscript covers made of leather, textile, or metal.

E. Traditional Clothing and Textiles

Traditional Cypriot clothing and textiles were signifiers of identity, social status, and culture, providing information about the multiple religious and ethnic populations in Cyprus from the Byzantine through Ottoman periods which may be absent from written records as historical documents rarely address ceremonies or social customs of non-elite groups. This category includes, but is not limited to, headdresses, headbands, hats, and pins (*fez, kasketo*); pants, dresses, and other body covers (*karpastiki, pafitki, sayia/saya, sarka, doupletti, foustani, routzieti, vraka, gileko, zimbouni*); aprons, belts and girdles (*zonari*), and socks (*klatses*) and shoes (*frangopodines, scarpes*).

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C.

553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

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

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury's authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

Chris Magnus, the Commissioner of CBP, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Cyprus to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
*	*	*
Cyprus	Archaeological material ranging approximately from the 11th millennium B.C. to A.D. 1770 and ethnological material ranging from approximately the 4th century A.D. to A.D. 1878.	CBP Dec. 22–15.
*	*	*

* * * * *

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

Approved:

Thomas C. West, Jr.,

Deputy Assistant Secretary of the Treasury for Tax Policy.

[FR Doc. 2022–15398 Filed 7–14–22; 4:15 pm]

BILLING CODE 9111–14–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2022–0025]

RIN 0960–AI73

Extension of Expiration Dates for Three Body System Listings

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending the expiration dates of the following body systems in the Listing of Impairments (listings) in our regulations: Low Birth Weight and Failure to Thrive, Endocrine Disorders, and Cancer (Malignant Neoplastic Diseases). We are making no other revisions to these body systems in this final rule. This extension ensures that we will continue to have the criteria we need to evaluate impairments in the affected body systems at step three of the sequential evaluation processes for initial claims and continuing disability reviews.

DATES: This final rule is effective on July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Michael J. Goldstein, Director, Office of Medical Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *https://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Background

We use the listings in appendix 1 to subpart P of part 404 of 20 CFR at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the title II and title XVI programs.[1] 20 CFR 404.1520(d), 416.920(d), 416.924(d). The listings are in two parts: Part A has listings criteria for adults and Part B has listings criteria for children. If you are age 18 or over, we apply the listings criteria in Part A when we assess your impairment or combination of impairments. If you are under age 18, we first use the criteria in Part B of the listings when we assess your impairment(s). If the criteria in Part B do not apply, we may use the criteria in Part A when those criteria consider the effects of your impairment(s). 20 CFR 404.1525(b), 416.925(b).

Explanation of Changes

In this final rule, we are extending the dates on which the listings for the following three body systems will no longer be effective as set out in the following chart:

[1] We also use the listings in the sequential evaluation processes we use to determine whether a beneficiary's disability continues. See 20 CFR 404.1594, 416.994, and 416.994a.

Body system listings	Current expiration date	New expiration date
Low Birth Weight and Failure to Thrive 100.00	August 12, 2022	August 14, 2026.
Endocrine Disorders 9.00 and 109.00	August 12, 2022	August 14, 2026.
Cancer (Malignant Neoplastic Diseases) 13.00 and 113.00	August 12, 2022	August 14, 2026.

We continue to revise and update the listings on a regular basis, including those body systems not affected by this final rule.[2] We intend to update the three listings affected by this final rule as necessary based on medical advances as quickly as possible, but may not be able to publish final rules revising these listings by the current expiration date. Therefore, we are extending the expiration dates listed above.

Regulatory Procedures

Justification for Final Rule

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in promulgating regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final regulation. The APA provides exceptions to the notice-and-comment requirements when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We determined that good cause exists for dispensing with the notice and public comment procedures. 5 U.S.C. 553(b)(B). This final rule only extends the date on which the three body system listings will no longer be effective. It makes no substantive changes to our rules. Our current regulations [3] provide that we may extend, revise, or promulgate the body system listings again. Therefore, we determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule. 5 U.S.C. 553(d)(3). We are not making any substantive changes to the listings in these body systems. Without an extension of the expiration date for these listings, we will not have the criteria we need to assess medical impairments in these three body systems at step three of the sequential evaluation processes. We therefore find it is in the public interest to make this final rule effective on the publication date.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the requirements for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it. We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule does not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This final rule only extends the date for the medical listings cited above, but does not create any new or affect any existing collections, or otherwise change any content of the currently published rules. Accordingly, it does not impose any burdens under the Paperwork Reduction Act and does not require OMB approval.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

The Acting Commissioner of the Social Security Administration, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons set out in the preamble, we are amending appendix 1 to subpart P of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart P—[Amended]

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)–(b) and (d)–(h), 216(i), 221(a) and (h)–(j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a) and (h)–(j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend appendix 1 to subpart P of part 404 in the introductory text by revising items 1, 10, and 14 to read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

* * * * *

1. Low Birth Weight and Failure to Thrive (100.00): August 14, 2026.

* * * * *

10. Endocrine Disorders (9.00 and 109.00): August 14, 2026.

* * * * *

14. Cancer (Malignant Neoplastic Diseases) (13.00 and 113.00): August 14, 2026.

* * * * *

[FR Doc. 2022–15209 Filed 7–15–22; 8:45 am]

BILLING CODE 4191–02–P

[2] We last extended the expiration dates of the three body system listings affected by this final rule on May 21, 2020 (85 FR 30842).

[3] See the first sentence of appendix 1 to subpart P of part 404 of 20 CFR.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0911]

RIN 1625–AA09

Drawbridge Operation Regulation; Mobile River, Hurricane, AL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the CSX Transportation Railroad swing bridge across the Mobile River, mile 13.1 near Hurricane, Alabama. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama.

DATES: This rule is effective August 17, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type USCG–2019–0911 in the ''SEARCH'' box and click ''SEARCH.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Doug Blakemore, Eighth Coast Guard Bridge Administrator at (504) 671–2128 or email *Douglas.A.Blakemore@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On January 27, 2020 the Coast Guard published a temporary deviation from regulations; request for comments (TD) entitled Drawbridge Operation Regulation; Mobile River, Hurricane, AL in the **Federal Register** (85 FR 4587). This temporary deviation was issued to test the remote operations system for 60 days. 8 comments were received and addressed in a NPRM under the same title.

On January 26, 2021 the Coast Guard published a second deviation to the regulations under the same title in the **Federal Register** (86 FR 7238) to test the remote operations for 180 days. The same 8 comments from the first test deviation were received.

On March 31, 2021 the Coast Guard published a Notice of Proposed Rulemaking under the same title in the **Federal Register** (86 FR 17096). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended September 28, 2021, we received the same eight comments, and addressed the adjudication of those comments in Section IV of this Final Rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The CSX Railroad Company, the owner of the bridge requested to change operation of the bridge from a tended drawbridge to a remotely operated drawbridge. The CSX Transportation Railroad drawbridge has a vertical clearance of 5′ in the closed to navigation position and operates in accordance with 33 CFR 117.5. This rule will not change the operation schedule of the bridge. This bridge will be operated from the CSX railroad yard located in Mobile, AL.

The waterway users include recreational vessels and commercial tows; which combined requires approximately six openings a day.

IV. Discussion of Comments, Changes and the Final Rule

The 8 comments received during the NPRM were the exact same comments provided during the both test deviations. The Coast Guard addressed all comments in the NPRM.

IV. Discussion of Final Rule

33 CFR 117.42 sets Coast Guard drawbridge regulations to operate a bridge from a remote location. This rule does not change the operating schedule nor does it change the request to open the bridge. Mariners requiring an opening may do so by contacting the CSX remote control center on Channels 13/16 or by the phone number posted at the bridge.

This rule allows CSX to control the drawbridge from their remote control center located in Mobile, AL and requires CSX to have the capability, including resources and manpower to return the operator to the bridge location within 3 hours following any of the below situations:

- Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge.
- CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements.
- At the direction of the District Commander.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given notice.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 117.111 to read as follows:

§ 117.111 Mobile River.

(a) The draw of the CSX Transportation Railroad bridge, mile 13.1 near Hurricane, AL shall be remotely operated by the bridge tender at CSX's bridge remote control center in Mobile, AL and shall open promptly and fully when signaled to open. Vessels can contact the CSX bridge tender via VHF–FM channel 13 or by telephone at the number displayed on the signs posted at the bridge to request an opening of the draw.

(b) CSX will return the tender to the bridge location within 3 hours following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge;

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements;

(3) Anytime at the direction of the District Commander.

Dated: June 28, 2022.

R.V. Timme,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2022–15234 Filed 7–15–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2022–0465]

RIN 1625–AA09

Drawbridge Operation Regulation; Erie Canal, Part of the New York State Canal System, in Albion, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the E–200 North Main Street Bridge, mile 293.15, over the Erie Canal to allow contractors to rehabilitate the bridge.

DATES: This temporary final rule is effective from October 1, 2022, through April 1, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material''.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking

SNPRM Supplemental notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the bridge will be locked in the fully open position during the rehabilitation process and will only encroach on the waterway with under bridge type vehicles. Also an NPRM at this time would be impractical since the contractors and dates have been secured; by the time an NPRM can be published, there would be no time to reschedule this type of work. There are also a number of bridges in close proximity to this project for land traffic. This rehabilitation project is required to maintain the bridge in serviceable condition for all modes of transportation at this crossing.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499. The E–200 North Main Street Bridge, mile 293.15, over the Erie Canal is required to open on signal and be manned by a drawtender twenty-four hours a day, for twelve months a year as required by 33 CFR 117.7. The bridge provides a vertical clearance of 3-feet in the closed position and 16-feet in the open position and a horizontal clearance of 120-feet.

The Erie Canal is part of the New York State Canal System and is a 525-mile federally regulated waterway that connects Hudson Bay to Lake Erie and is listed on the National Register of Historic Places in its entirety as a National Historic Landmark. Powered and unpowered recreational vessels and commercial and historic vessels travel the waterway.

IV. Discussion of the Rule

This rule will allow the contractor to utilize under bridge equipment to temporarily encroach on the navigational clearance of the bridge to perform steel rehabilitation work to the bridge. The bridge will be locked in the fully open to navigation position for the duration of the project and the contractor will provide spotters to warn of approaching vessels and move the man lifts to allow vessels to pass under the bridge. The permitted navigation lights for the bridge will be replaced by steady burning yellow lights on the bottom and four-corners of the draw span after power is disconnected from the bridge. The regular permitted navigation lights will be replaced and re-energized at the end of the project.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge throughout the rehabilitation process.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. From October 1, 2022 through April 1, 2024, temporarily add § 117.783T to read as follows:

§ 117.783T Erie Canal.

The E–200 North Main Street Bridge, mile 293.15, over the Erie Canal, in Albion, NY will be rehabilitated with under bridge vehicles. The Bridge will remain in the open to navigation position for the duration of the project. Spotters will warn of approaching vessels and move the man lift to allow vessels to pass. Bridge lighting will be temporarily replaced with steady burning yellow lights on the bottom and four-corners of the bridge where they can best be seen by vessels approaching from up river or down river of the bridge.

M.J. Johnston,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2022–15233 Filed 7–15–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0910]

RIN 1625–AA09

Drawbridge Operation Regulation; Bayou Sara, Saraland, AL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing how the CSX Transportation Railroad swing bridge across Bayou Sara, mile 0.1 near Saraland, Alabama will be operated. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama.

DATES: This rule is effective August 17, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type the docket number USCG–2019–0910 in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Doug Blakemore, Eighth Coast Guard Bridge Administrator at (504) 671–2128 or email *Douglas.A.Blakemore@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On January 22, 2020, the Coast Guard published a Test Deviation, with a request for comments, entitled ''Drawbridge Operation Regulation; Bayou Sara, Saraland, AL'' in the **Federal Register** (85 FR 3853), to seek your comments on whether the Coast Guard should consider modifying the current operating schedule to test this operating schedule for the CSX Railroad Bridge. Two comments were received during the test period and those comments were addressed in the NPRM.

On March 30, 2021, the Coast Guard published a Notice of Proposed Rulemaking entitled ''Drawbridge Operation Regulation; Bayou Sara, Saraland, AL'' in the **Federal Register** (86 FR 16680). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. No additional comments were received during the NPRM comment period.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The CSX Railroad Company, the owner of the bridge requested to change operation of the bridge from a tended drawbridge to a remotely operated drawbridge. The CSX Transportation Railroad drawbridge has a vertical clearance of 5′ in the closed to navigation position and operates in accordance with 33 CFR 117.105. This rule will not change the operation schedule of the bridge. This bridge will be operated from the CSX railroad yard located in Mobile, AL.

The waterway users include recreational vessels and commercial tows; which combined requires approximately six openings a day.

IV. Discussion of Comments, Changes and the Final Rule

As mentioned above in Section II, two comments were received during the test period **Federal Register** (85 FR 3853), and those comments were addressed in the NPRM **Federal Register** (86 FR 16680). 33 CFR 117.42 sets Coast Guard drawbridge regulations to operate a bridge from a remote location. This rule does not change the operating schedule nor does it change the request to open the bridge. Mariners requiring an opening may do so by contacting the CSX remote control center on Channels 13/16 or by the phone number posted at the bridge. We note that in the NPRM some language was removed from the regulatory text found in 33 CFR 117.105. Specifically, language about notice for

openings between 6 p.m. and 10 a.m. and openings for severe storms or hurricanes. We have reinserted that language here so that it will remain in effect upon publication of this rule.

This rule continues to allow opening on signal, except eight hours' notice is required for openings between 6 p.m. and 10 a.m. The rule also allows CSX to control the drawbridge from their remote control center located in Mobile, AL and requires CSX to have the capability, including resources and manpower to return the operator to the bridge location within 3 hours following any of the below situations:

- Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge.
- CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements.
- At the direction of the District Commander.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.105 to read as follows:

§ 117.105 Bayou Sara.

(a) The draw of the CSX Transportation Railroad bridge, mile 0.1 near Saraland, shall open on signal; except that, from 6 p.m. to 10 a.m. the draw shall open on signal if at least eight hours' notice is given. During

periods of severe storms or hurricanes, from the time the National Weather Service sounds an ''alert'' for the area until the ''all clear'' is sounded, the draw shall open on signal.

(b) The draw of the CSX Transportation Railroad bridge, mile 0.1 near Saraland, AL shall be remotely operated by the bridge tender at CSX's bridge remote control center in Mobile, Alabama. Vessels can contact the CSX bridge tender via VHF–FM channel 13 or by telephone at the number displayed on the signs posted at the bridge to request an opening of the draw.

(c) CSX will return the tender to the bridge location within 3 hours following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge;

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements;

(3) Anytime at the direction of the District Commander.

Dated: June 28, 2022.

R.V. Timme,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2022–15232 Filed 7–15–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0558]

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone located in federal regulations for a recurring marine event. This action is necessary and intended for the safety of life and property on navigable waters during this event. During the enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo or his designated representative.

DATES: The regulations in 33 CFR 165.939, as listed in entry (b)(6) in Table 165.939, will be enforced from 8:45 a.m. through 11:15 p.m. on July 23, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT. Jared Stevens, Waterways Management Division, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0124, email *D09-SMB-MSUCLEVELAND-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a Safety Zone; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939, Table 165.939(b)(6) for the Parade of Lights on July 23, 2022. Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo (COTP) or his designated representative. Those seeking permission to enter the safety zone may request permission from the COTP Buffalo via channel 16, VHF–FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the COTP Buffalo or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the COTP Buffalo determines that the safety zone need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: July 1, 2022.

M.I. Kuperman,

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

[FR Doc. 2022–15231 Filed 7–15–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0552]

RIN 1625–AA00

Safety Zone; Homewood Wedding Fireworks Display, Homewood, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Lake Tahoe, near Homewood, CA, in support of the Homewood Wedding Fireworks display on July 23, 2022. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from 7:30 p.m. to 10:03 p.m. on July 23, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0552 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Anthony I. Solares, Coast Guard Sector San Francisco, at 415–399–3585, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until June 25, 2022. It is impracticable to go through the full notice and comment rule making process because the Coast Guard must establish this safety zone by July 23, 2022, and lacks sufficient time to provide a reasonable comment period

and to consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is necessary to protect personnel, vessels, and the marine environment from the potential safety hazards associated with the fireworks display in Lake Tahoe near Homewood, CA, on July 23, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the Homewood Wedding Fireworks Display on July 23, 2022, will be a safety concern for anyone within a 100-foot radius of the fireworks display dock during loading and staging and anyone within a 140-foot radius of the fireworks starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks display location and during the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 7:30 p.m. until 10:03 p.m. on July 23, 2022, during the loading and staging of the fireworks until 30 minutes prior to the start of the fireworks display, the safety zone will encompass the navigable waters around and under the fireworks display location, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks display. The pyrotechnics will be loaded and staged on the dock from 7:30 p.m. to 9 p.m. on July 23, 2022, at the display location in Homewood, CA, where the fireworks will remain until the conclusion of the fireworks display.

At 9 p.m. on July 23, 2022, 30 minutes prior to the commencement of the 3-minute Homewood Wedding Fireworks Display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks display dock, from surface to bottom, within a circle formed by connecting all points 140 feet from the circle center at approximate position 39°07′41.7″ N, 120°09′32.3″ W (North American Datum of 1983 (NAD 83)). The safety zone will terminate at 10:03 p.m. on July 23, 2022 or as announced via Broadcast Notice to Mariners.

This regulation is necessary to keep persons and vessels away from the immediate vicinity of the fireworks loading, staging, and display site. Except for persons or vessels authorized by the Captain of the Port San Francisco (COTP) or the COTP's designated representative, no person or vessel may enter or remain in the restricted area. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone. This regulation is necessary to ensure the safety of personnel, vessels, and the marine environment.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

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

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T11–106 to read as follows:

§ 165.T11–106 Safety Zone; Homewood Wedding Fireworks Display, Lake Tahoe, Homewood, CA.

(a) *Location.* The following area is a safety zone: all navigable waters of Lake Tahoe, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks display dock during the loading and staging at the display location in Homewood, CA. Between 9 p.m. and 10:03 p.m. on July 23, 2022, the safety zone will expand to all navigable waters, from surface to bottom, within a circle formed by connecting all points 140 feet out from the fireworks display dock in approximate position 39°07′41.7″ N, 120°09′32.3″ W (North American Datum of 1983 (NAD 83)) or as announced via Broadcast Notice to Mariners.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or a Federal, State, or Local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

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

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

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement period.* This section will be enforced from 7:30 p.m. until 10:03 p.m. on July 23, 2022.

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

Dated: July 12, 2022.

Taylor Q. Lam,

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

[FR Doc. 2022–15271 Filed 7–15–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2022–0453; FRL–9427–01–OCSPP]

RIN 2070–AL04

Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning With Reporting Years 2021 and 2022

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is updating the list of chemicals subject to toxic chemical release reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA). Specifically, this action updates the regulations to identify five per- and polyfluoroalkyl substances (PFAS) that must be reported pursuant to the National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA) enacted on December 20, 2019. As this action is being taken to conform the regulations to a Congressional legislative mandate, notice and comment rulemaking is unnecessary.

DATES: This final rule is effective August 17, 2022.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–TRI–2022–0453, is available at *https://www.regulations.gov*. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Daniel R. Ruedy, Data Gathering and Analysis Division (7406M), Office of Pollution Prevention and Toxics,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–7974; email address: *ruedy.daniel@epa.gov*.

For general information contact: The Emergency Planning and Community Right-to-Know Act Hotline; telephone numbers: toll free at (800) 424–9346 (select menu option 3) or (703) 348–5070 in the Washington, DC, area and international; or go to *https://www.epa.gov/home/epa-hotlines*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use any of the PFAS listed in this rule. The following list of North American Industry Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this action applies to them. Potentially affected entities may include:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211130*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512230*, 512250*, 519130*, 541713*, 541715* or 811490*. *Exceptions and/or limitations exist for these NAICS codes.
- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 211130 (corresponds to SIC code 1321, Natural Gas Liquids, and SIC 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified); or 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212230, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).
- Federal facilities.

A more detailed description of the types of facilities covered by the NAICS codes subject to reporting under EPCRA section 313 can be found at: *https://www.epa.gov/toxics-release-inventory-tri-program/tri-covered-industry-sectors*. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 372, subpart B. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

EPA is codifying the five additional PFAS that were added to the EPCRA section 313 list of reportable chemicals (more commonly known as the Toxics Release Inventory (TRI)) since the last conforming rule pursuant to the FY2020 NDAA (86 FR 29698, June 3, 2021) (FRL–10022–25)).

C. What is the Agency's authority for taking this action?

This action is issued under the authority of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 U.S.C. 11001 *et seq.*), section 6607 of the Pollution Prevention Act (PPA) (42 U.S.C. 13106), and section 7321 of the National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA) (Pub. L. 116–92, *https://www.congress.gov/public-laws/116th-congress*).

II. Background

A. What is NDAA section 7321?

On December 20, 2019, the FY2020 NDAA was signed into law. Among other provisions, section 7321(c) identifies certain regulatory activities that automatically add PFAS or classes of PFAS to the EPCRA section 313 list of reportable chemicals. Specifically, PFAS or classes of PFAS are added to the EPCRA section 313 list of reportable chemicals beginning January 1 of the calendar year after any one of the following dates:

- Final Toxicity Value. The date on which the Administrator finalizes a toxicity value for the PFAS or class of PFAS;
- Significant New Use Rule. The date on which the Administrator makes a covered determination for the PFAS or class of PFAS;
- Addition to Existing Significant New Use Rule. The date on which the PFAS or class of PFAS is added to a list of substances covered by a covered determination;
- Addition as an Active Chemical Substance. The date on which the PFAS or class of PFAS to which a covered determination applies is:

(1) Added to the list published under section 8(b)(1) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*) and designated as an active chemical substance under TSCA section 8(b)(5)(A); or

(2) Designated as an active chemical substance under TSCA section 8(b)(5)(B) on the list published under TSCA section 8(b)(1).

The FY2020 NDAA defines ''covered determination'' as a determination made by rule under TSCA section 5(a)(2) that a use of a PFAS or class of PFAS is a significant new use (except such a determination made in connection with a determination described in TSCA sections 5(a)(3)(B) or 5(a)(3)(C)).

Under FY2020 NDAA section 7321(e), EPA must review confidential business information (CBI) claims before PFAS are added to the list pursuant to subsections (b)(1), (c)(1), or (d)(3) whose identities are subject to a claim of protection from disclosure under 5 U.S.C. 552(a), pursuant to subsection (b)(4) of that section. Under the FY2020 NDAA EPA must:

- Review a claim of protection from disclosure; and
- Require that person to reassert and substantiate or resubstantiate that claim in accordance with TSCA section 14(f) (15 U.S.C. 2613(f)).

In addition, if EPA determines that the chemical identity of a PFAS or class of PFAS qualifies for protection from disclosure, EPA must include the PFAS or class of PFAS on the TRI in a manner that does not disclose the protected information.

B. What PFAS have been added to the TRI list?

EPA has reviewed the above-listed criteria and found five chemicals that meet the requirements of this part of the FY2020 NDAA and whose identity is not claimed as confidential business information (CBI).

Chemical name/CAS No.	Triggering action	Effective date
Perfluorobutane sulfonic acid (375-73-5)	Final Toxicity Value (Ref. 1)	1/1/22
Perfluorobutanesulfonate (45187-15-3)	Final Toxicity Value (Ref. 1)	1/1/22
Potassium perfluorobutane sulfonate (29420-49-3)	Final Toxicity Value (Ref. 1)	1/1/22
2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl 2-methyl-2-propenoate (65104-45-2).	Subject to a covered TSCA section 5(a)(2) determination and has been designated as an active chemical substance under TSCA section 8(b)(5)(B) on the list published under TSCA section 8(b)(1).	1/1/21
2-Propenoic acid, 2-methyl-, hexadecyl ester, polymers with 2-hydroxyethyl methacrylate, gamma-omega-perfluoro-C10-6-alkyl acrylate and stearyl methacrylate (203743-03-7).	Addition to Existing Significant New Use Rule (see 85 FR 45109, July 27, 2020) (FRL-10010-44) CBI Declassification (Ref. 2).	1/1/22

As stated above, under FY2020 NDAA section 7321(e), EPA must review CBI claims before PFAS whose identities are subject to a claim of protection from disclosure under 5 U.S.C. 552(a) (pursuant to subsection (b)(4)) are added to the list. The substance with the CAS No. 203743–03–7 met the criteria under FY2020 NDAA section 7321(c)(1)(A)(iii), but was subject to a claim of protection from disclosure under 5 U.S.C. 552(b)(4) at that time. That substance's identity has since been published on the non-confidential portion of the TSCA Inventory in 2021; therefore, the chemical was added to the list.

As established by the FY2020 NDAA, the addition of these PFAS to the EPCRA section 313 list of reportable chemicals is effective January 1 of the calendar year following any of the dates identified in FY2020 NDAA section 7321(c)(1)(A). Accordingly, four of these five non-CBI PFAS are reportable for the 2022 reporting year (*i.e.,* reports due July 1, 2023). One of the five is reportable for the 2021 reporting year (*i.e.,* reports due July 1, 2022). A triggering activity under FY2020 NDAA section 7321(c)(1)(A)(iv)(II) (*i.e.,* a PFAS to which a covered TSCA section 5(a)(2) determination is made and designated as an active chemical substance under TSCA section 8(b)(5)(B) on the list published under TSCA section 8(b)(1)) occurred for this PFAS in 2020, but it was not identified in the conforming rule in 2021 (see Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the TRI Beginning with the Reporting Year 2021 final rule (86 FR 29698, June 3, 2021) (FRL–10022–25)). Due to the 2020 triggering activity, this PFAS was added by the NDAA effective January 1, 2021. This rule is conforming the regulatory text in the CFR to reflect this addition.

EPA is issuing this final rule to amend the EPCRA section 313 list of reportable chemicals in 40 CFR 372.65 to include these five non-CBI PFAS added pursuant to the FY2020 NDAA.

III. Good Cause Exception

Section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary. This action is being taken to comply with a mandate in an Act of Congress, where Congress identified actions that automatically add these chemicals to the TRI. Thus, EPA has no discretion as to the outcome of this rule, which merely aligns the regulations with the self-effectuating changes provided by the FY2020 NDAA.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not itself physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Human Health Toxicity Values for Perfluorobutane Sulfonic Acid and Related Compound Potassium Perfluorobutane Sulfonate. U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–20/345F: April 2021. *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=350888.*

2. EPA. Updates to Confidential Status of Chemicals on the TSCA Inventory. October 15, 2021. *https://www.epa.gov/tsca-cbi/updates-confidential-status-chemicals-tsca-inventory.*

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). OMB has previously approved the information collection activities contained in the existing regulations and assigned OMB control numbers 2070–0212 and 2050–0078.

Currently, the facilities subject to the reporting requirements under EPCRA section 313 and PPA section 6607 may use either EPA Toxic Chemicals Release Inventory Form R (EPA Form 9350–1), or EPA Toxic Chemicals Release Inventory Form A (EPA Form 9350–2). The Form R must be completed if a facility manufactures, processes, or otherwise uses any listed chemical above threshold quantities and meets certain other criteria. For the Form A, EPA established an alternative threshold for facilities with low annual reportable amounts of a listed toxic chemical. The annual reportable amount is equal to the combined total quantities of the following waste management activities:

- Released at the facility (including disposed of within the facility);
- Treated at the facility (as represented by amounts destroyed or converted by treatment processes);

- Recovered at the facility as a result of recycling operations;
- Combusted for the purpose of energy recovery at the facility; and
- Amounts transferred from the facility to off-site locations for the purpose of recycling, energy recovery, treatment, and/or disposal.

A facility that meets the appropriate reporting thresholds, but estimates that the total annual reportable amount of the chemical does not exceed 500 pounds per year, can take advantage of an alternative manufacture, process, or otherwise use threshold of 1 million pounds per year of the chemical, provided that certain conditions are met, and submit the Form A instead of the Form R. In addition, respondents may designate the specific chemical identity of a substance as a trade secret pursuant to EPCRA section 322 (42 U.S.C. 11042) and 40 CFR part 350. OMB has approved the reporting and recordkeeping requirements related to Forms A and R, supplier notification, and petitions under OMB Control No. 2070–0212 (EPA Information Collection Request (ICR) No. 2613.04) and those related to trade secret designations under OMB Control No. 2050–0078 (EPA ICR No. 1428.12).

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 relevant to EPA's regulations in 40 CFR are listed in 40 CFR part 9 and displayed on the information collection instruments (*e.g.,* forms, instructions).

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. As discussed in Unit III., this rule is not subject to notice and comment requirements because the Agency has invoked the APA ''good cause'' exception under 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule will not impose substantial direct compliance costs on Indian Tribal Governments. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. As such, NTTAA section 12(d), 15 U.S.C. 272 *note,* does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14008: Tackling the Climate Crisis at Home and Abroad

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action makes changes to the reporting requirements for PFAS that will result in more information being collected and provided to the public; it does not have any impact on human health or the environment. This action does not address any human health or environmental risks and does not affect the level of protection provided to human health or the environment. This action makes changes to the reporting requirements for PFAS which will provide information that government agencies and others can use to identify potential problems, set priorities, and help inform activities.

Likewise, Executive Order 14008 (86 FR 7619, January 27, 2021) directs Federal agencies, as part of a Government wide approach to reduce climate pollution impacts on minority populations and low-income populations. However, the EPA believes that this type of action does not directly concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. This action involves additions to reporting requirements that will not affect the level of protection provided to human health or the environment Although this action does not concern human health or environmental conditions, the information collected through TRI reporting will serve to inform communities living near facilities that report to TRI, and there is the potential for new information about toxic chemical releases and waste management practices occurring in those communities to become available through the TRI reporting data.

K. Congressional Review Act (CRA)

This action is subject to the 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. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 13, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for the reasons stated in the preamble, EPA amends 40 CFR part 372 as follows:

PART 372—TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

■ 2. Amend § 372.65 as follows:

■ a. In paragraph (d), add in alphabetical order to the table the entries for ''Perfluorobutane sulfonic acid''; ''Perfluorobutanesulfonate''; ''Potassium perfluorobutane''; ''2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl 2-methyl-2-propenoate'', and ''2-Propenoic acid, 2-methyl-, hexadecyl ester, polymers with 2-hydroxyethyl methacrylate, .gamma.-.omega.-perfluoro-C10-6-alkyl acrylate and stearyl methacrylate;'' and

■ b. In paragraph (e), add in numerical order to the table the entries for ''375-73-5'', ''29420-49-3'', ''45187-15-3'', ''65104-45-2'', and ''203743-03-7.''

The additions read as follows:

§ 372.65 Chemicals and chemical categories to which this part applies.

* * * * *

(d) * * *

TABLE 4 TO PARAGRAPH (d)

Chemical name	CAS No.	Effective date
* * * * * * *		
Perfluorobutane sulfonic acid	375-73-5	1/1/22
Perfluorobutanesulfonate	45187-15-3	1/1/22
* * * * * * *		
Potassium perfluorobutane	29420-49-3	1/1/22
* * * * * * *		
2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl 2-methyl-2-propenoate	65104-45-2	1/1/21
* * * * * * *		
2-Propenoic acid, 2-methyl-, hexadecyl ester, polymers with 2-hydroxyethyl methacrylate, .gamma.-.omega.-perfluoro-C10-6-alkyl acrylate and stearyl methacrylate	203743-03-7	1/1/22
* * * * * * *		

(e) * * *

TABLE 5 TO PARAGRAPH (e)

CAS No.	Chemical name	Effective date
* * * * * * *		
375-73-5	Perfluorobutane sulfonic acid	1/1/22
* * * * * * *		
29420-49-3	Potassium perfluorobutane	1/1/22
* * * * * * *		
45187-15-3	Perfluorobutanesulfonate	1/1/22
* * * * * * *		
65104-45-2	2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl 2-methyl-2-propenoate.	1/1/21
* * * * * * *		
203743-03-7	2-Propenoic acid, 2-methyl-, hexadecyl ester, polymers with 2-hydroxyethyl methacrylate, .gamma.-.omega.-perfluoro-C10-6-alkyl acrylate and stearyl methacrylate.	1/1/22
* * * * * * *		

[FR Doc. 2022–15268 Filed 7–15–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123, RM–11820; FCC 22–48; FR ID 96083]

Internet Protocol Relay Service Compensation Formula

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, to ensure that the providers of Telecommunications Relay Service (TRS) are compensated for the provision of internet Protocol Relay Service (IP Relay), the Federal Communications Commission (Commission) adopts a formula to compensate such providers from the Interstate TRS Fund for the provision of service for the next four-year compensation period.

DATES: This rule is effective July 18, 2022.

FOR FURTHER INFORMATION CONTACT: William Wallace, Consumer and Governmental Affairs Bureau, at (202) 418–2716, or email *William.Wallace@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, document FCC 22–48, adopted on June 25, 2022, released on June 30, 2022, in CG Docket No. 03–123 and RM–11820. The Commission previously sought comment on these issues in a Notice of Proposed Rulemaking (*Notice*), published at 86 FR 64440, November 18, 2021. The full text of document FCC 22–48 can be accessed electronically via the FCC's Electronic Document Management System (EDOCS) website at *www.fcc.gov/edocs* or via the FCC's Electronic Comment Filing System (ECFS) website at *www.fcc.gov/ecfs.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov,* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

Congressional Review Act

The Commission sent a copy of document FCC 22–48 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 22–48 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. Therefore, it also does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

1. IP Relay is an internet-based text-to-voice relay service. With IP Relay, an individual with a hearing or speech disability can communicate with voice telephone users by transmitting text via the internet. The text transmission is delivered to an IP Relay call center, where a communications assistant (CA) converts the user's text to speech for the hearing party and converts that party's speech to text for the IP Relay user.

2. IP Relay is supported entirely by the Interstate TRS Fund. Under the current methodology for determining IP Relay provider compensation, a base level of per-minute compensation is determined every three years, based on the weighted average of providers' reasonable costs. The base compensation level approved by the Commission is subject to annual adjustments for inflation and efficiency based on pre-approved factors, as well as ad hoc adjustment in the event that a provider incurs eligible ''exogenous'' costs. The current inflation factor is the Gross Domestic Product—Price Index (GDP–PI). After three years, a new reasonable-cost-based compensation level is determined for the next period. The current compensation period began July 1, 2019, and ended June 30, 2022.

Reasonable-Cost Based Compensation

3. The Commission continues the practice of periodically resetting the base level of IP Relay compensation based on a determination of reasonable provider cost. While certain criteria for determining reasonable IP Relay costs need adjustment in light of subsequent experience, the record does not support more radical changes in the IP Relay compensation methodology. The Commission has developed a consistent approach to determining the reasonable costs of providing TRS, which can be applied without imposing undue administrative burdens on either providers or the Commission. Further, although any ratemaking method is subject to imprecision, provider cost data, which is subject to audit, has been reasonably reliable and consistent. T-Mobile fails to support its claim that the current methodology ''precludes any increase in compensation regardless of the extent to which the costs of supplying the service may have risen.'' To the contrary, over the last eight years, compensation has risen from $1.0147 to $1.7146 per minute, due to rising costs and waivers of certain allowable-cost criteria.

4. *Outreach.* The Commission revises its allowable-cost criteria to provide that reasonable costs associated with IP Relay provider outreach are recoverable from the TRS Fund. The concerns underlying the Commission's 2013 decision to terminate TRS Fund support for IP Relay outreach are no longer applicable. The pilot National Outreach Program, established to provide coordinated national outreach for both video relay service (VRS) and IP Relay, expired in 2017 and has not been reauthorized. In the absence of a Commission-directed outreach program, IP Relay provider outreach activity no longer represents wasteful duplication of effort. Further, the company providing IP Relay appears to be reasonably well positioned to communicate with potential users. In addition, the concern that TRS providers tend to focus on competitive marketing of their own brand, rather than outreach to new users, is not applicable to the current IP Relay context, in which only one company offers the service.

5. The Commission also finds that there is an affirmative need for TRS Fund support of IP Relay outreach. Given the limited current use of the service, the Commission's rules should not discourage providers from making efforts to effectively educate consumers—especially relatively narrow subgroups of eligible users, such as consumers who are deafblind—regarding the availability of and improvements to the service. Further, with only one IP Relay provider, the Commission believes that provider outreach expenditures are more likely to be focused on educating potential new users about the service rather than on encouraging or preventing ''churn'' among existing customers. Finally, the Commission acknowledges the Consumer and Governmental Affairs Bureau's (Bureau) conclusion that a review of the outreach reports submitted by T-Mobile indicates that its outreach activity since 2016 has not shown that it is misdirected toward ineligible users. The Commission does not find it necessary at this time to impose a quantitative limit on allowable outreach

costs or require specific reporting to the Commission on IP Relay outreach activity. When the Commission periodically resets the base compensation level based on a determination of reasonable cost, the administrator's review of reported expenses will help the Commission to assess whether outreach expenses are reasonable and directed toward permissible purposes.

6. *Indirect Overhead.* The Commission concludes that the record does not support modifying, for IP Relay, the current prohibition on TRS Fund support of general overhead costs, where a company has both TRS and non-TRS lines of business and it is not possible to assign such costs directly to the company's TRS. In 2007, the Commission concluded that, when a company provides both TRS and non-TRS services, general overhead costs should not be supported by the TRS Fund. Therefore, overhead costs cannot be allocated to TRS based on a formula, *e.g.,* by multiplying a company's total overhead costs by the percentage of the company's total revenues that are derived from TRS. In adopting the rule, the Commission reasoned that because ''Congress placed the obligation to provide TRS on common carriers that were already offering voice telephone service,'' the rule is necessary for consistency with the statute and to avoid having the TRS Fund subsidize non-TRS services.

7. The comments do not persuade the Commission that this rationale is flawed. Although the Commission sought comment on a number of questions relevant to this issue, none of the comments addresses those questions in any detail. For example, the record does not provide any explanation of what kinds of costs fall into this category, the amount of such costs that would be allocated to TRS, were such allocation allowed, and why overhead costs attributable to TRS could not be directly assigned.

8. *Cost of Telephone Numbers.* The Commission revises its allowable-cost criteria for IP Relay to allow TRS Fund support of an IP Relay provider's reasonable costs of acquiring North American Numbering Plan telephone numbers. There is no valid rationale for prohibiting support of such costs. In 2008, the Commission reasoned that such costs are not attributable to the use of a relay service to facilitate a call, noting that analogous costs incurred by voice service providers are typically passed through to their customers. However, given that the Commission's rules *require* IP Relay providers to issue telephone numbers, the Commission finds it illogical to treat number acquisition costs as ''not attributable to the use of relay to facilitate a call.'' Further, the circumstances relevant to recovery of such costs by voice service providers and IP Relay providers are not equivalent. While voice service providers have a billing relationship with their consumers, IP Relay providers typically do not, and there would be little point in creating such a relationship for the sole purpose of passing through what likely would be a *de minimis* monthly charge for any particular IP Relay user.

9. *Research and Development.* Currently, the TRS Fund supports research and development conducted by a TRS provider to ensure that its service meets the Commission's minimum TRS standards, but it does not support the cost of developing TRS enhancements that exceed this criterion. The question of whether to modify the criterion for research and development affects other forms of TRS and is currently at issue in a parallel proceeding, the *2021 VRS Compensation NPRM,* published at 86 FR 29969, June 4, 2021. For these reasons, the Commission defers resolution of this question to a later time.

Operating Margin

10. The Commission adopts its proposal to allow an IP Relay provider a reasonable operating margin—*i.e.,* an allowance for recovery of a designated percentage of allowed expenses, in lieu of return on capital investment. In the *2017 VRS Compensation Order,* published at 82 FR 39673, August 22, 2017, the Commission acknowledged VRS providers' claims that a percentage return on booked costs for investment in fixed plant was insufficient to compensate them for the cost of raising capital to operate a labor-intensive business like VRS. Accordingly, the Commission amended its compensation rules to specify a percentage of allowable expenses as a reasonable operating margin for VRS providers. The Commission also adopted this approach for internet Protocol Captioned Telephone Service (IP CTS) compensation.

11. Like VRS and IP CTS, IP Relay requires providers to invest relatively little in physical plant. Therefore, for the same reasons as described above, the Commission concludes that allowing an IP Relay provider a reasonable margin over expenses, which is not tied to the relatively low investment in physical plant that is needed for the provision of this service, will help ensure sufficient investment in the provision of this service. Taking this step appropriately harmonizes the Commission's general approach to compensation methodology for all forms of internet-based TRS.

12. When setting the operating margin for VRS, the Commission reviewed the operating margins for various interpretation and translation services and government contractors who are paid for services mandated by law and supervised by the government. The Commission selected the range from 7.6% to 12.35% as a reasonable range of operating margins for VRS. The cost structure of IP Relay is similar to that of VRS in that an IP Relay provider also relies on communications assistants to relay conversations between a hearing party and a non-hearing party. Given these similarities, the range of operating margins deemed reasonable for VRS is also a reasonable range for IP Relay.

13. In setting a margin within this range, the Commission recognizes that, because there is currently only one IP Relay provider, the Commission's risk-benefit analysis is different for IP Relay than for VRS and IP CTS. If the operating margin should turn out to be significantly lower than margins that currently can be earned in comparable lines of business, the current provider might exit the business, leaving consumers stranded. To guard against this risk, the Commission sets the IP Relay operating margin at 12%, near the high end of the reasonable range.

14. The Commission does not agree with T-Mobile's argument that an operating margin *above* the current range is needed. The benchmark advocated by T-Mobile is based on ''the average operating margin obtained by T-Mobile and comparable communications providers'' such as Verizon, AT&T, CCO Holdings, LLC (Charter Communications), and Comcast Corporation. Such businesses are capital intensive rather than labor intensive, requiring more long-term capital investment to build and maintain physical plant. Indeed, the essential *dissimilarity* in capital requirements between such companies and TRS providers is what led the Commission to adopt an operating-margin approach for TRS in the first place.

15. Given these significant differences between TRS and the more capital-intensive market segments in which T-Mobile otherwise operates, the Commission is unpersuaded by T-Mobile's argument that providing an operating margin somewhat lower than those earned by more capital intensive operations would force T-Mobile ''to redirect resources currently allocated to that service to other service offerings,'' or even to exit the IP Relay business altogether. The logic of T-Mobile's

argument is not sound. Although the allowed *operating margin* for IP Relay may be lower than the actual operating margin for more capital-intensive lines of business, the *return on investment*—given the relatively small proportion of capital investment needed for TRS—is likely to be *higher.* Therefore, the capital resources allocated to IP Relay are likely to be well rewarded.

16. The Commission also does not agree that the recent surge of inflation dictates a higher operating margin ''to provide some cushion against the cost increases T-Mobile Accessibility would have to absorb before the next annual adjustment.'' As discussed below, the compensation formula includes an inflation adjustment factor linked to an appropriate index. The Commission does not find a valid reason to include an additional inflation factor in the operating margin. Inflation affects all businesses, and the record does not contain evidence showing such a unique impact on IP Relay as to warrant special treatment in setting the allowed operating margin. Further, if, due to an increase in the inflation rate, the annual adjustment factor applicable to a given year lags behind actual inflation in that year, any resulting losses are likely to be offset by windfall gains in a future year, when the actual inflation rate subsides below the applicable adjustment factor derived from the previous year's higher rate.

Projected vs. Historical Costs

17. The Commission adopts its proposal to use projected costs and demand as the basis for calculating the base compensation level for IP Relay. Historically, this was the Commission's practice in setting cost-based compensation for any form of TRS. However, the Commission found that VRS and IP CTS providers' projections of cost and demand proved unreliable, resulting in overcompensation of providers. For those services, therefore, the Commission has adopted a different approach, averaging providers' projected per-minute costs for the current calendar year and historical per-minute costs for the preceding calendar year. The Commission found that this blended approach was consistently a more accurate predictor of actual costs for both VRS and IP CTS.

18. Until 2019, however, the base level for IP Relay compensation was still set based on projected costs only. In that year, the Bureau switched to the blended approach, to align the IP Relay methodology with those for VRS and IP CTS.

19. As explained in the *2021 IP Relay Compensation NPRM,* provider projections of IP Relay costs have proved to be substantially more accurate than those for VRS and IP CTS. A comparison of T-Mobile's cost projections with the actual cost per minute reported between 2015 and 2019 demonstrates that, in the case of IP Relay, the results of the projected-only approach have proven to be reasonably accurate. The Commission concludes that this difference with its findings regarding VRS and IP CTS justifies a return to the practice of using projected-only costs and demand when setting IP Relay compensation levels.

Compensation Period and Adjustments

20. *Duration of Compensation Period.* The Commission finds that the IP Relay compensation formula established in document FCC 22–48 should remain in place for a four-year period. As the Commission has previously recognized, multi-year compensation periods are generally beneficial in the TRS context. Longer periods give providers more certainty regarding future compensation and provide a significant incentive for increased efficiency, as cost reductions during a multi-year period do not immediately result in reduced compensation the following year. A multi-year compensation period can thus reduce the risk of rewarding inefficiency, discouraging innovation, and incentivizing providers to incur unnecessary costs, all potential effects of annual cost-of-service compensation setting.

21. The Commission concludes that current conditions justify increasing the compensation period from three to four years. IP Relay costs and demand have been relatively stable and accurate in recent years, and T-Mobile does not anticipate any significant changes to the service in the near future. A four-year period will provide T-Mobile a substantial degree of predictability in its reimbursements from the Fund, improving its ability to plan future operations. Although T-Mobile recommends a longer compensation period, the Commission has not previously set a period longer than four years for any form of internet-based TRS. Given the inherent uncertainty of setting compensation formulas in the absence of price competition, the Commission declines at this time to extend the compensation term beyond previous precedent.

22. The Commission delegates authority to the Chief of the Bureau to extend the compensation period by Order, should such extension prove to be necessary to prevent the termination of TRS Fund support for IP Relay (*e.g.,* if, due to unanticipated data issues or other delays, a situation arises where there is insufficient time remaining for the Commission to complete a determination of a revised compensation formula for the next compensation period).

23. *Inflation Adjustment.* The Commission will continue to apply an annual adjustment to IP Relay compensation to account for inflation after the first year of the cycle. As the adjustment factor, the Commission adopts the Bureau of Labor Statistics' Employment Cost Index for professional, scientific, and technical services. The Commission concludes that, because IP Relay is a labor-intensive service, this seasonally adjusted index, which includes translation and interpreting services, will more accurately reflect changes in relevant costs. Although T-Mobile urges continued use of the Gross Domestic Product–Price Index (GDP–PI) as the appropriate inflation factor, it fails to justify the use of such a broad-gauged index, which tracks price increases throughout the economy, including businesses with proportionately lower labor costs, in light of the availability of a more narrowly focused index that is more likely to reflect actual TRS cost changes.

24. The Commission delegates authority to the Chief of the Bureau to approve annual inflation adjustments for IP Relay, beginning with Fund Year 2023–24. The Commission directs the TRS Fund administrator to specify in its annual TRS Fund report, beginning with the report due May 1, 2023, the index values for each quarter of the previous calendar year and the last quarter of the year before that. The Commission also directs the TRS Fund administrator to propose a compensation level for IP Relay that is adjusted from the previous year by a percentage equal to the percentage change in the index between the first and fifth quarters specified in the report. After notice and opportunity for comment, the Chief of the Bureau, acting under delegated authority, shall review the administrator's proposed adjustment and approve it, or make any necessary modifications to ensure consistency with the Commission's rules and orders.

25. *Efficiency Adjustment.* At this time, the Commission does not find it necessary to offset the inflation factor with an efficiency factor analogous to those of price-cap regulation. The paired inflation and efficiency adjustments are a feature of price-cap regulation designed to reflect the likelihood that a regulated company will become more productive or efficient. In 2007, when the Commission made the decision to

apply an efficiency factor to this service, IP Relay was a relatively new service, for which substantial efficiency improvements might be expected. In recent years, by contrast, usage of this 20-year-old service has been relatively stable, and per-minute costs have not decreased. Without the presence of multiple competing providers, there is less likelihood of a competitive incentive to achieve annual efficiency gains. The Commission declines to adopt a *negative* efficiency factor, as recommended by T-Mobile. In adopting the Employment Cost Index for professional, scientific, and technical services as the inflation adjustment factor, the Commission has directly addressed T-Mobile's concern regarding rising labor costs in the TRS sector.

26. *Exogenous Costs.* Under the current methodology, the IP Relay compensation level can be adjusted to permit recovery of exogenous costs. These are defined as ''costs beyond the control of the IP Relay providers that are not reflected in the inflation adjustment,'' such as costs necessitated by a new service requirement adopted by the Commission. In the *Notice,* the Commission asked whether it should align the criteria for exogenous costs in the IP Relay compensation regime with those adopted in the *2017 VRS Compensation Order.* Under the VRS criteria, which also apply to IP CTS compensation, an upward compensation adjustment for well-documented exogenous costs is available for costs that (1) belong to a category of costs that the Commission has deemed allowable, (2) result from new TRS requirements or other causes beyond the provider's control, (3) are new costs that were not factored into the applicable compensation formula, and (4) if unrecovered, would cause a provider's current costs (allowable expenses plus operating margin) to exceed its revenues.

27. The Commission finds that these exogenous cost criteria are also appropriate for IP Relay. Although T-Mobile urges deletion of the last criterion, contending that exogenous cost should be recoverable even if recovery would add to the provider's revenues, the Commission finds that this criterion is appropriate to ensure that exogenous cost recovery is warranted, *i.e.,* necessary for a provider to recover its reasonable costs. Any exogenous cost claims should be submitted to the TRS Fund administrator with the provider's annual cost report, so that the administrator can review such claims and make appropriate recommendations. The Commission delegates authority to the Bureau to make determinations regarding timely submitted exogenous cost claims, following notice and opportunity for comment.

Alternative Compensation Methodology

28. The Commission is unpersuaded that it should derive IP Relay compensation by proxy, from the Multi-State Average Rate Structure (MARS) based compensation formula for interstate traditional (TTY-based) TRS, as advocated by T-Mobile. To implement its proposed approach, T-Mobile explains, the Commission would take as a starting point the current MARS-based formula for interstate traditional TRS, which is calculated annually as a weighted average of the per-minute compensation levels for intrastate traditional TRS (and speech-to-speech relay service (STS)) in each state TRS program. Next, the Commission would (1) multiply the interstate traditional TRS formula by projected IP Relay minutes for the next Fund Year, (2) subtract from that figure those annual costs that are incurred by T-Mobile in providing traditional TRS but not IP Relay, and (3) add in those annual costs that are incurred in providing IP Relay but not traditional TRS. The resulting funding total would be divided by projected IP Relay demand to determine the per-minute compensation level.

29. *Flaws in T-Mobile's Proposal.* The Commission concludes that reliance on T-Mobile's proposed MARS-based methodology would not result in compensation that is commensurate with the reasonable costs of IP Relay. Notwithstanding some functional and operational similarities between IP Relay and traditional TRS, the record does not support T-Mobile's claim that the services have similar cost structures. T-Mobile itself acknowledges that there are substantial differences between the costs of the two services, as illustrated by the substantial subtractions and additions included in its proposal. The record shows that a cost-based compensation level for IP Relay (including a reasonable operating margin), as determined in this Report and Order, is $1.9576, *less than half* the compensation level for traditional TRS ($4.5098). The disparity between per-minute IP Relay costs and traditional TRS compensation has increased over time, and it is reasonable to assume that it will continue increasing.

30. Even if there were not such a large disparity between the proposed proxy and actual costs, T-Mobile's proposed formula must be rejected, as it would be substantially *more* difficult to apply than the current methodology and less likely to result in a compensation formula that that aligns with reasonable provider costs. T-Mobile acknowledges that a substantial portion of the compensation for traditional TRS reflects costs unique to state-program TRS, including sales staff, account management/support staff, equipment distribution programs, outreach programs, and state-mandated call centers, none of which apply to IP Relay. To avoid over-compensation for IP Relay, all these costs (which are not currently reported to the TRS Fund administrator) must be estimated and then subtracted from total compensation for traditional TRS. T-Mobile also asserts that IP Relay includes additional costs not included in state-program TRS—for outreach, website operation, and regulatory compliance. Verifying the accuracy of these complex calculations would require a level of effort much greater than that currently required to review IP Relay costs alone. Although T-Mobile claims that the state-program-specific costs are included in a separate Monthly Recurring Charge (MRC), which is separately reported to the Fund administrator, T-Mobile cautions that some costs relevant to IP Relay are included in some states' MRCs, and therefore argues that the MRCs cannot be subtracted in their entirety. As a further complication, some of the state-program compensation that is used to calculate the interstate traditional TRS formula represents compensation for state-program STS. Since the actual costs of STS may be different from those for providing traditional TRS, ensuring that such differences do not distort the estimates for traditional TRS could require yet another calculation, further increasing the complexity of T-Mobile's proposed methodology.

31. Further, the record does not indicate that T-Mobile's costs for providing traditional TRS are currently reviewed by state regulatory authorities. Therefore, the costs identified by T-Mobile as unique to traditional TRS would need to be collected, reported, and audited by the TRS Fund administrator—even though none of those costs is actually relevant to providing IP Relay. And because these costs are to be *subtracted* in establishing the compensation formula, the provider would have no special incentive to ensure that it has identified all relevant traditional TRS costs. Instead, the burden would be on the TRS Fund administrator, who would have no access to the underlying raw data, to ensure that no costs unique to

traditional TRS have been omitted or underreported. Such a process would not be conducive to producing accurate cost estimates.

32. T-Mobile claims that the calculation could be simplified after the first year by continuing indefinitely to apply the percentage cost difference initially calculated. In subsequent years, T-Mobile suggests, the MARS formula simply could be adjusted by a constant percentage factor, which represents the initially calculated ratio of the net difference in the costs of the two services to total traditional TRS compensation. While such a simplified approach may be less burdensome than repeatedly recalculating the relevant costs, it would remove IP Relay compensation even further from any plausible relationship to actual IP Relay costs. Such reliance on the initially calculated cost difference to set compensation for future years would be especially misleading given the record evidence that the cost difference between the services is continually increasing. By contrast, the methodology the Commission adopts relies on readily available data collected by the TRS Fund administrator from providers of IP Relay with reasonable adjustments based on Department of Labor statistics. The Commission does not need to engage in the unusually complicated calculations entailed by T-Mobile's proposal when a simpler and more accurate methodology is readily available.

Compensation Level for 2022–2023

33. TRS Fund Year 2022–23 will be the first year of a new compensation cycle for IP Relay, which will extend for four years, through June 30, 2026. With the addition of a 12% operating margin to the average of T-Mobile's projected per-minute costs for calendar years 2022 and 2023—based on the most recent submissions of cost and demand data to the Fund administrator—the resulting base compensation formula is $1.9576 per minute, a 14.2% increase from the current compensation level of $1.7146 per minute. This base level of compensation shall be applicable during Fund Year 2022–23. For the second, third, and fourth years, compensation for IP Relay shall be adjusted in accordance with the inflation and exogenous cost adjustment factors adopted above.

Final Regulatory Flexibility Analysis

34. As required by the Regulatory Flexibility Act of 1980, as amended, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *2021 IP Relay Compensation NPRM.* The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. No comments were received in response to the IRFA.

35. *Need for, and Objectives of, the Rules.* Document FCC 22–48 addresses how telecommunications relay service (TRS) providers receive compensation from the Interstate TRS Fund for the provision of Interstate Protocol Relay Service (IP Relay). The Commission adopts a new four-year compensation formula using a cost-based methodology with the initial year's compensation level based on an average of providers' projected costs and demand for the next two years, with annual adjustments for inflation and unanticipated exogenous costs, if any. The methodology ensures that IP Relay providers are compensated for the reasonable costs of providing the service and increases the assurance that IP Relay is made available in the most efficient manner.

36. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed in response to the IRFA.

37. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

38. *Description and Estimate of the Number of Small Entities to which the Rules will Apply.* All Other Telecommunications.

39. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* Adoption of a new compensation methodology for IP Relay does not result in any new or modified reporting, recordkeeping, or other compliance requirements on IP Relay providers.

40. *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* By reforming the compensation methodology for IP Relay, the Commission is (1) taking steps to ensure that providers of IP Relay are fairly compensated for the provision of IP Relay; and (2) to ensure that functionally equivalent service and an efficient IP Relay market are maintained over the long term in accordance with the Commission's statutory obligations. Reforming the compensation methodology for IP Relay will not affect the burdens on IP Relay providers or other small entities.

Ordering Clauses

41. Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 51, 152, and 225, document FCC 22–48 is adopted, and the Commission's rules are amended.

42. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the document FCC 22–48, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with Disabilities, Telecommunications, Telephones.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

Subpart F—Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities

■ 2. The authority citation for subpart F continues to read as follows:

Authority: 47 U.S.C. 151–154; 225, 255, 303(r), 616, and 620.

■ 3. Add § 64.640 to read as follows:

§ 64.640 Compensation for IP Relay.

(a) For the period from July 1, 2022, through June 30, 2026, TRS Fund compensation for the provision of IP Relay shall be as described in this section.

(b) For Fund Year 2022–23, comprising the period from July 1, 2022, through June 30, 2023, the Compensation Level for IP Relay shall be $1.9576 per minute.

(c) For each succeeding Fund Year through June 30, 2026, the per-minute Compensation Level (L_{FY}) shall be determined in accordance with the following equation:

$$L_{FY} = L_{FY-1} * (1+IF_{FY})$$

where IF_{FY} is the Inflation Adjustment Factor for that Fund Year, determined in accordance with paragraph (d) of this section.

(d) The inflation adjustment factor for a Fund Year (IF_{FY}), to be determined

annually on or before June 30, is 1/100 times the difference between the values of the Employment Cost Index compiled by the Bureau of Labor Statistics, U.S. Department of Labor, for total compensation for private industry workers in professional, scientific, and technical services, for the following periods:

(1) The fourth quarter of the Calendar Year ending 6 months before the beginning of the Fund Year; and

(2) The fourth quarter of the preceding Calendar Year.

(e) In addition to L_{FY}, an IP Relay provider shall be paid a per-minute exogenous cost adjustment if claims for exogenous cost recovery are submitted by the provider and approved by the Commission on or before June 30. Such exogenous cost adjustment shall equal the amount of such approved claims divided by the provider's projected minutes for the Fund Year. Exogenous cost adjustments, if any, are not included in the previous Fund Year's per-minute Compensation Level (L_{FY-1}) for purposes of paragraph (c) of this section.

(f) An exogenous cost adjustment shall be paid if an IP Relay provider incurs well-documented costs that:

(1) Belong to a category of costs that the Commission has deemed allowable;

(2) Result from new TRS requirements or other causes beyond the provider's control;

(3) Are new costs that were not factored into the applicable compensation formula; and

(4) If unrecovered, would cause a provider's current allowable-expenses-plus-operating margin to exceed its revenues.

[FR Doc. 2022–15278 Filed 7–15–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220216–0049; RTID 0648–XC174]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2022 total allowable catch of Pacific ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 13, 2022, through 2400 hours, A.l.t., December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

The 2022 total allowable catch (TAC) of Pacific ocean perch in the West Yakutat District of the GOA is 1,409 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish of the GOA (87 FR 11599, March 2, 2022).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2022 TAC of Pacific ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,309 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing of Pacific ocean perch in the West Yakutat district of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 12, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: July 13, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–15286 Filed 7–13–22; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 136
Monday, July 18, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2022–0039]

Credit Card Late Fees and Late Payments

AGENCY: Bureau of Consumer Financial Protection.

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

SUMMARY: On June 22, 2022, the Consumer Financial Protection Bureau (Bureau or CFPB) issued an Advance Notice of Proposed Rulemaking (ANPR) requesting information regarding credit card late fees and late payments, and card issuers' revenue and expenses. The ANPR was published in the **Federal Register** on June 29, 2022, and provided for a comment period that was set to close on July 22, 2022. To allow interested persons more time to gather the requested information and submit their comments, the Bureau has determined that a 10-day extension of the comment period until August 1, 2022, is appropriate.

DATES: The end of the comment period for the Credit Card Late Fees and Late Payments ANPR published on June 29, 2022, at 87 FR 38679, is extended from July 22, 2022, until August 1, 2022.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2022–0039, by any of the following methods:

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

2. *Email: 2022-CreditCardLateFeeANPR@cfpb.gov.* Include Docket No. CFPB–2022–0039 in the subject line of the message.

3. *Mail/Hand Delivery/Courier:* Comment Intake—Credit Card Late Fees, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *https://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern time. At that time, you can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions in response to this notice, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

If you wish to submit trade secret or confidential commercial information, please contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section below. Information that the submitter customarily and actually keeps private will be treated as confidential in accordance with the Bureau's Rule on the Disclosure of Records and Information, 12 CFR part 1070.

FOR FURTHER INFORMATION CONTACT: Adrien Fernandez, Counsel, Krista Ayoub and Steve Wrone, Senior Counsels, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On June 22, 2022, the Bureau issued an ANPR requesting information regarding credit card late fees and late payments, and card issuers' revenue and expenses. The ANPR was published in the **Federal Register** on June 29, 2022.

The ANPR provided a comment period that was set to close on July 22, 2022. The Bureau has since received requests from several card issuer trade groups for an extension of the comment period in order to give card issuers more time to gather, validate, and analyze the requested information. The Bureau has determined that an extension of the ANPR comment period to August 1, 2022, is appropriate. This extension will allow card issuers, consumer groups, and the public more time to pull together the requested information for submission. The ANPR comment period will now close on August 1, 2022.

Dani Zylberberg,

Counsel and Federal Register Liaison, Consumer Financial Protection Bureau.

[FR Doc. 2022–15245 Filed 7–15–22; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–598]

RIN 1117–AB60

Providing Controlled Substances to Ocean Vessels, Aircraft, and Other Entities

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is issuing this advance notice of proposed rulemaking to obtain information regarding the procurement of controlled substances by a medical officer for emergency kits on board ocean vessels, aircraft, and certain other entities. The regulations permitting controlled substances acquired by and dispensed under the general supervision of a medical officer to be stored in and dispensed from emergency kits on board ocean vessels, aircraft, and other entities were established in 1971 and have not been significantly modified since. DEA is considering revising these regulations and seeks to gain a better understanding of the industry's current needs and practices.

DATES: Electronic comments must be submitted, and written comments must be postmarked, on or before September 16, 2022. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''RIN 1117–AB60/Docket No. DEA–598'' on all correspondence, including any attachments.

- *Electronic comments:* DEA encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted, and there is no need to resubmit the same comment.
- *Paper comments:* Paper comments that duplicate the electronic submission are not necessary and are discouraged. Should you wish to mail a paper comment in lieu of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, VA 22152.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 776–2265.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by DEA for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

Comments containing personal identifying information or confidential business information identified as directed above will be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as your name, address, etc.) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this advance notice of proposed rulemaking is available at *http://www.regulations.gov* for ease of reference.

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act, as amended.[1] DEA publishes the implementing regulations for these statutes in 21 CFR parts 1300 to end. These regulations are designed to ensure a sufficient supply of controlled substances for medical, scientific, and other legitimate purposes, and to deter the diversion of controlled substances for illicit purposes.

As mandated by the CSA, DEA establishes and maintains a closed system of control for manufacturing, distribution, and dispensing of controlled substances, and requires any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances to register with DEA, unless they meet an exemption.[2] The CSA authorizes the DEA Administrator (Administrator), by delegation from the Attorney General, to register an applicant to manufacture, distribute, or dispense controlled substances if such registration is determined to be consistent with the public interest.[3] The CSA further authorizes the Administrator to promulgate regulations necessary and appropriate to execute the functions of subchapter I (Control and Enforcement) and subchapter II (Import and Export) of the CSA,[4] or relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances.[5] By this authority, DEA is considering revising the regulations that permit controlled substances acquired by and dispensed under the general supervision of a medical officer to be stored in and dispensed from medicine chests, first aid packets, or dispensaries on board ocean vessels, aircraft, and in any other entity of fixed or transient location approved by the Administrator.[6]

Background

The existing regulations in 21 CFR 1301.25 that allow controlled substances to be held for stocking, maintained in, and dispensed from medicine chests, first aid packets, and dispensaries on board ocean vessels, aircraft, and in certain other entities were published in 1971 as part of the original regulations implementing the CSA.[7] Since then, only minor changes have been made to these regulations. In 1972, 21 CFR 301.28, ''Registration regarding ocean vessels,'' and 21 CFR 301.29, ''Registration regarding commercial aircraft,'' were combined into one section, 21 CFR 301.28, ''Registration regarding ocean vessels, commercial aircraft and certain other entities.''[8] In 1973, all parts and sections of Title 21 of the CFR were re-designated upward by one thousand; thus, 21 CFR 301.28 became 21 CFR 1301.28.[9] In 1997, the section was re-designated again and became 21 CFR

[1] 21 U.S.C. 801–971.

[2] 21 U.S.C. 822.

[3] 21 U.S.C. 823.

[4] 21 U.S.C. 871(b).

[5] 21 U.S.C. 821.

[6] 21 CFR 1301.25(a).

[7] *Proposed Regulations Implementing the Comprehensive Drug Abuse Prevention Act of 1970,* 36 FR 4928 (March 13, 1971) and *Regulations Implementing the Comprehensive Drug Abuse Prevention Act of 1970,* 36 FR 7776 (April 24, 1971).

[8] 37 FR 15917 (August 8, 1972).

[9] 38 FR 26609 (September 24, 1973).

1301.25.[10] DEA is soliciting information from entities acquiring controlled substances in accordance with 21 CFR 1301.25 to better understand current industry practices.

Current Regulations

The current regulations allow controlled substances to be kept in emergency kits on board vessels, aircraft, and other entities if they are acquired by and dispensed under the general supervision of a medical officer or the master or first officer of certain vessels.[11] The regulations specify vessels as those engaged in international trade, in trade between ports of the United States, any merchant vessel belonging to the U.S. Government, and aircraft ''operated by an air carrier under a certificate of permit issued pursuant to the Federal Aviation Act of 1958 . . . .'' [12] This language suggests that the regulations were intended to accommodate commercial entities. However, vessels and aircraft used primarily for recreation (*e.g.,* private yachts, planes or jets) are not specifically addressed. Thus, DEA seeks information regarding emergency kits for recreational vessels and aircraft containing controlled substances acquired pursuant to the regulations in 21 CFR 1301.25. Specifically, DEA is seeking a detailed description of the circumstances in which controlled substances would be needed, the current process for obtaining controlled substances (*e.g.,* through the use of a medical officer or directly from a pharmacy or distributor), and any recordkeeping procedures pertaining to the controlled substances in emergency kits on recreational vessels and aircraft.

DEA notes that all passenger-carrying aircraft certified by the Federal Aviation Administration are required to have an approved emergency medical kit on board.[13] However, the list of contents required to be maintained in approved emergency medical kits does not include any controlled substances.[14] Thus, DEA seeks information with regard to the maintenance of controlled substances in emergency kits on commercial aircraft.

The current regulations also allow controlled substances to be kept in emergency kits ''in any entity of fixed or transient location approved by the Administrator. . . .'' [15] In a previously published notice of proposed rulemaking preamble, DEA stated that this provision was added to accommodate ''other situations where controlled substances are held at scattered locations for emergency purposes: [o]ffshore oil rigs, landing fields in Alaska, remote industrial locations, and so forth.'' [16] DEA seeks information regarding controlled substances held in emergency kits at field sites of an industrial firm (*e.g.,* airplane hangars, factories, mines, etc.), in oil rigs, platforms, barges, or any other technology related to offshore drilling and mining. Specifically, DEA is seeking a detailed description of the entity where the emergency kit is held, the process for obtaining controlled substances for the emergency kit, recordkeeping procedures, and controlled substance dispensing and administration requirements.

Medical Officers

The regulations require the medical officer to be licensed as a physician, employed by the owner or operator of the vessel, aircraft, or other entity, and registered with DEA at the principal office of the owner or operator of the vessel, aircraft, or other entity.[17] The controlled substances must be ordered by the medical officer, who is the DEA registrant, and shipped to the registered location of the medical officer, as opposed to being shipped directly to the vessel, aircraft, or other entity. Representatives from the maritime industry have noted the challenges they face as a result of this requirement. In response to a previously published advance notice of proposed rulemaking (ANPRM),[18] commenters reported that some medical officers are employed on a part-time basis and often serve as medical officers for more than one owner or operator. Commenters stated that this can result in significant delays and vessels being inadequately supplied, as controlled substances may sit at the medical officer's registered location for weeks. In addition, one commenter believed that the regulations do not provide any alternatives for fixed offshore installations with no medical officer to acquire controlled substances for emergency kits. However, DEA notes that for controlled substances, specifically those in schedule II, the regulations state that the controlled substances must be shipped only to the purchaser (*i.e.,* the medical officer) at the registered location.[19] Therefore, DEA seeks information regarding a registration option for ocean vessels, aircraft, and other entities.

The regulations also provide that, in the absence of a registered medical officer, the master or first officer of a vessel may purchase controlled substances by personally appearing before a registered manufacturer, distributor, or authorized pharmacy.[20] The master or first officer must present proper identification and a written requisition for the controlled substances, prepared using the vessel's official stationery or purchase order form. In response to a previously published ANPRM, commenters opposed the requirement that the master or first officer must personally appear at the vendor's place of business, stating that it did not align with current industry practice.[21] The commenters also noted that having the master or first officer go ashore to purchase controlled substances is difficult because of their shipboard duties and the length of time vessels are in port. DEA seeks information regarding the purchase of controlled substances by the master or first officer of a vessel. Specifically, DEA wishes to understand whether masters or first officers routinely go ashore to purchase controlled substances or only occasionally.

Comments Requested

DEA is soliciting information from the maritime and aviation and other industries to gain a better understanding of current industry practices, needs, and requirements with respect to controlled substances maintained in emergency kits. Although all comments are welcome, DEA is particularly interested in comments regarding the questions listed below.

1. Please describe in detail the procedures followed by vessels, aircraft, or any other approved entity to obtain controlled substances for medicine chests, first aid packets, or dispensaries.

2. Are there any other regulations, standards, or requirements (other than DEA regulations) that the entities must comply with when acquiring and maintaining controlled substances for medicine chests, first aid packets, or dispensaries?

3. Is a medical officer always involved in the procurement of the controlled substances? If not, please describe in detail: (1) the circumstances under which controlled substances are acquired without a medical officer, and

[10] 62 FR 13938 (March 24, 1997).

[11] 21 CFR 1301.25(a).

[12] 21 CFR 1301.25(a).

[13] 14 CFR 121.803(c).

[14] 14 CFR part 121; Appendix A to part 121—First Aid Kits and Emergency Medical Kits.

[15] 21 CFR 1301.25(a)(3).

[16] *Drug Abuse Prevention and Control Notice of Proposed Rule Making,* 37 FR 10370 (May 20, 1972) and *Drug Abuse Prevention and Control,* 37 FR 15917 (August 8, 1972).

[17] 21 CFR 1301.25(b).

[18] 61 FR 49086 (September 18, 1996).

[19] 21 CFR 1305.13(c).

[20] 21 CFR 1301.25(d).

[21] 61 FR 49086 (September 18, 1996).

(2) the process for acquiring controlled substances under such circumstances?

4. Please describe in detail the current role of a medical officer, including all services provided, on board vessels, aircraft, or any other approved entity.

5. Please describe in detail how controlled substances are acquired by those entities who do not employ a medical officer.

6. Who generally supplies the controlled substances to the vessels, aircraft, or other entities? DEA-registered distributors, pharmacies, manufacturers, etc.?

7. Please describe the safeguards that are in place to provide effective controls against diversion of controlled substances.

a. Please describe the procedures that must be followed when handling controlled substances.

b. Who has access to the controlled substances?

c. Who is permitted to dispense or administer controlled substances and under what circumstances are they permitted to do so?

d. Are there recordkeeping requirements for maintaining inventory, documenting any controlled substances administered, dispensed, lost, stolen, or disposed of?

e. Who is responsible for recordkeeping?

8. Please describe the procedures followed for disposing of damaged, expired, or otherwise unwanted controlled substances.

9. Please describe the procedure for reporting theft or loss of controlled substances.

10. Please provide any information that would help DEA quantify (or discuss qualitatively) the potential costs and benefits of a rule that would promote or restrict the use of contract and part-time medical officers.

11. Please provide any information that could be used to help DEA quantify (or discuss qualitatively) the potential costs and benefits of a rule that would require a DEA registration to obtain controlled substances for stocking, maintaining in, and dispensing from medicine chests, first aid packets, or dispensaries on board vessels, aircraft, or other entities.

12. *For the airline industry:* Please confirm whether controlled substances are kept in emergency kits on board airplanes.

a. If so, please describe how the controlled substances are obtained.

b. Are medical officers frequently employed by the airline industry?

c. If a medical emergency arises, who on the airplane is permitted to dispense or administer controlled substances, if needed?

13. *For vessels and other offshore entities* (*e.g.,* oil rigs and platforms, mobile offshore drilling units, mining sites, etc.): How and when are the controlled substances delivered?

a. Are the controlled substances shipped from the medical officer to the vessel or other entity while in port or prior to offshore deployment?

b. Are controlled substances ever shipped directly from the vendor to the vessel or other entity?

c. Who on board the vessel or other entity is responsible for receiving the shipment?

Regulatory Analyses

This ANPRM was developed in accordance with the principles of Executive Order (E.O.) 12866, ''Regulatory Planning and Review'' and E.O. 13563, ''Improving Regulation and Regulatory Review.'' Since this action is an ANPRM, the requirement of E.O. 12866 to assess the costs and benefits of this action does not apply.

Furthermore, the requirements of the Regulatory Flexibility Act do not apply to this action because, at this stage, it is an ANPRM and not a ''rule'' as defined in 5 U.S.C. 601. Following review of the comments received in response to this ANPRM, if DEA proceeds with a notice of proposed rulemaking regarding this matter, DEA will conduct all relevant analyses as required by statute or Executive Order.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 13, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–15265 Filed 7–15–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0483]

RIN 1625–AA87

Security Zone; San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a security zone in the navigable waters of the San Francisco Bay near Yerba Buena Island within the San Francisco Captain of the Port (COTP) zone. This security zone is necessary to provide for the security of military service members on board vessels moored at the pier and the government property associated with these valuable national assets. This proposed rulemaking would prohibit the entry of, transiting through, or anchoring within a portion of the San Francisco Bay extending from Yerba Buena Island unless specifically authorized by the Captain of the Port San Francisco. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before August 17, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0483 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT William Harris, Sector San Francisco, U.S. Coast Guard; telephone 415–399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

In October 2021, the Captain of the Port (COTP) San Francisco identified a need for clearer Aids to Navigation to

inform the boating public of restricted areas near Yerba Buena Island. Further discussion discovered that current regulations established a Restricted Area, but not a Security Zone. The COTP has determined that potential security concerns associated with the mooring of Coast Guard Cutters would necessitate a Coast Guard Security Zone.

The purpose of this rulemaking is to ensure the security of Coast Guard facilities, personnel, and vessels, at all times within the navigable waters of the San Francisco Bay on the east side of Yerba Buena Island from a point along the southeastern shore of Yerba Buena Island at 37°48′27″ N, 122°21′44″ W; east to 37°48′27″ N, 122°21′35″ W; north to 37°48′49″ N, 122°21′35″ W, a point on the northeastern side of Yerba Buena Island. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a security zone which would cover all navigable waters of the San Francisco Bay on the east side of Yerba Buena Island from a point along the southeastern shore of Yerba Buena Island at 37°48′27″ N, 122°21′44″ W; east to 37°48′27″ N, 122°21′35″ W; north to 37°48′49″ N, 122°21′35″ W, a point on the northeastern side of Yerba Buena Island. This zone is intended to protect the personnel and facilities of U.S. Coast Guard units and assets located on and within the waters of Yerba Buena Island. No vessel or person would be permitted to enter the security zone unless authorized by the COTP. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and location of the security zone. The effect of this proposed rule will not be significant because vessel traffic can pass safely around the area, and this proposed rule will encompass only a small portion of the waterway.

B. Impact on Small Entities

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a security zone that would prohibit entry within navigable waters of the San Francisco Bay on the east side of Yerba Buena Island from a point along the southeastern shore of Yerba Buena Island at 37°48′27″ N, 122°21′44″ W; east to 37°48′27″ N, 122°21′35″ W; north to 37°48′49″ N, 122°21′35″ W, a point on the northeastern side of Yerba Buena Island. Normally such actions are

categorically excluded from further review under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0483 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.1189 to read as follows:

§ 165.1189 Security Zone; San Francisco Bay, San Francisco, CA.

(a) *Location.* The following area is a security zone: all navigable waters of the San Francisco Bay on the east side of Yerba Buena Island from a point along the southeastern shore of Yerba Buena Island at 37°48′27″ N, 122°21′44″ W; east to 37°48′27″ N, 122°21′35″ W; north to 37°48′49″ N, 122°21′35″ W, a point on the northeastern side of Yerba Buena Island. These coordinates are based on North American Datum (NAD) 83.

(b) *Regulations.* (1) In accordance with the general security zone regulations in subpart D of this part, entry into the area of the security zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port (COTP) San Francisco.

(2) The security zone is closed to all vessel traffic, except as may be permitted by the COTP.

(3) To seek permission to enter, contact the COTP by VHF Marine Radio channel 16 or through the 24-hour Command Center at telephone (415) 399–3547. Those in the security zone must comply with all lawful orders or directions given to them by the COTP.

(c) *Enforcement.* The Captain of the Port will enforce the security zone described in paragraph (a) of this section and may be assisted in the patrol and enforcement of the security zone by any Federal, State, county, municipal, or private agency.

Dated: July 12, 2022.

Taylor Q. Lam,

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

[FR Doc. 2022–15270 Filed 7–15–22; 8:45 am]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2022–8; Order No. 6224]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Two). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 26, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On July 7, 2022, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1]

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), July 7, 2022 (Petition). The Petition was accompanied by a study supporting its proposal. *See* Michael D. Bradley, *Calculating Variabilities for Postmaster Costs,* July 7, 2022. The Postal Service also filed a notice of filing of public and non-public materials relating to Proposal Two. Notice of Filing

Continued

The Petition identifies the proposed analytical changes filed in this docket as Proposal Two.

II. Proposal Two

Background. In Docket No. RM2020–2 (Proposal Ten), the Postal Service proposed revisions aimed at updating and improving the attribution of Postmaster costs.[2] The Commission raised four main issues with Proposal Ten and ultimately rejected it because the Postal Service did not show that its proposed revisions to Postmaster cost variability and attribution would result in a significant improvement in the attribution of costs nor were necessitated by the public interest. *See* Order No. 5932 at 9–46. The Commission offered two alternative methods that would remedy the deficiencies in Proposal Ten, and encouraged the Postal Service to resubmit an updated Postmaster variability analysis. *See id.* at 47. Following the Commission's guidance in Order No. 5932, the Postal Service now submits Proposal Two to address and improve the Postmaster variability analysis. *See* Petition at 2.

Proposal. The first of the two variability calculation methods offered by the Commission in Order No. 5932 was termed the ''Large Sample Version of Proposal Ten Variability'' (LSVPTV) method.[3] The LSVPTV method addresses the Postmaster variability discontinuity issue through analyzing the variability calculation under the assumption that there is an infinite number of Post Offices in the two grades for which the variability is calculated. *See id.* at 3. However, the Postal Service states that under this method, the Work Service Credit (WSC) probability distribution is unknown and must be estimated in an additional analysis before the variability can be calculated. *See id.*

The second variability calculation method offered by the Commission in Order No. 5932 was termed the ''Minimization of Error Distance Between Predicted and Actual Cost'' (MEDBPAC) method, which was also referred to as a ''geometrical'' approach. *See id.* at 3–4 (citing File A5 at 12). To calculate a variability for a given Executive Administrative Schedule (EAS) grade pair, the algorithm modifies the total Postmaster cost equation by replacing the counts of the numbers of offices in the higher and lower EAS grades with the sums of the probabilities of an office being in either the higher or lower EAS grade, as determined by the logit model. *See id.* at 4.

The Postal Service considered and evaluated the two methods and determined that the MEDBPAC method provides a stronger foundation than the LSVPTV method for calculating Postmaster attributable costs. *See id.* The Postal Service asserts that the LSVPTV method has several disadvantages. First, it involves calculating the limit of the variability function, not calculating the variability directly from the variability function itself. *See id.* Second, it requires assuming that there is an infinite number of Post Offices, which may present issues for pairs of EAS grades with relatively few Post Offices. *See id.* at 4–5. Third, it requires non-parametric estimation of the continuous probability distribution of the WSCs for each pair of Post Offices, which imparts arbitrariness to the estimation and adds another step of complexity to the calculation. *See id.* at 5. Fourth, the calculated LSVPTV variability turns out to be the variability of cost with respect to the threshold WSC level, not WSCs directly, which may cause issues for the calculation of incremental costs. *See id.*

The Postal Service contends that in comparison, the MEDBPAC method has several advantages. First, it is much closer in form to established methods of variability calculation. *See id.* Second, it is transparent and does not require another layer of assumptions and estimations. *See id.* Third, it makes use of the actual distribution of WSCs across Post Offices, ensuring that the variabilities reflect the underlying cost surface. *See id.* Fourth, it is consistent with the economic theory underlying attributable cost calculation. *See id.* Therefore, the Postal Service proposes to use the MEDBPAC method to calculate the Postmaster variability.

The Postal Service also determined to extract Form 150 WSC data from 2022 to update the logit models used in Docket No. RM2022–2, as those logit models were estimated from older Form 150 WSC data from 2019. *See id.* The Postal Service states that doing so updates the variability analysis to the most recent data available and demonstrates the stability of the logit models. *See id.*

As the 2022 Postmaster variabilities depend not only on the logit models estimated on the 2022 WSC data, but also on the EAS salary schedule for 2022, the Postal Service summarized the changes in EAS salary schedule for 2022 in comparison with the EAS salary schedule for 2019. *See id.* at 7–8.

Based on the logit models estimated on the 2022 WSC data and the 2022 EAS salary schedule, the Postal Service calculated the 2022 Postmaster variabilities. *See id.* at 8, Table 1. The Postal Service also included the 2019 Postmaster variabilities for comparison and found that three of the estimated variabilities were very stable, one showed modest change, and two showed substantial change due to EAS salary schedule change from 2019 to 2022. *See id.* at 8–9.

Impact. In the Postmaster cost model used currently, a single variability is applied against the costs for EAS grades 18 through 22, and grades 24 and above receive a zero variability by assumption. *See id.* at 10. In contrast, the variability calculation using the MEDBPAC method as proposed by the Postal Service calculates variability for each of the EAS grades below EAS–26, including EAS–24. *See id.* The Postal Service states that doing so results in an overall variability of 3.03 percent, calculated by first calculating the total volume variable costs implied by the individual EAS grade variabilities and then dividing that sum by total accrued costs. *See id.*

The Postal Service states that under the proposed approach the new overall variability is lower than the existing variability for three reasons. First, the Postal Service observes that current variability calculation method is overstated due to a computational error. *See id.*

Second, the Postal Service notes that the Post Office Structure Plan (POStPlan) eliminated the lower EAS grades. *See id.* In lower EAS grades, Postmaster could move relatively rapidly through WSCs to a higher salary. *See id.* In higher EAS grades, Postmaster would need much larger increases in WSCs in order to move to a higher salary. *See id.* Therefore, the Postal Service contends that eliminating the lower EAS grades results in the less likelihood of Postmaster cost increase for a given percentage increase in volume, which in turn results in the lower overall variability. *See id.*

Third, the Postal Service states that the current variability calculation method measures only the potential increase in cost from an increase in WSCs, not the actual increase captured by the distribution of offices, by WSCs, and within each grade. *See id.* at 10–11. Thus, the Postal Service notes that the current methodology tends to overstate the variability because it assumes that all offices would change grades when

of USPS–RM2022–8–1 and USPS–RM2022–8–NP1 and Application for Nonpublic Treatment, July 7, 2022.

[2] *See* Petition at 1 (citing Docket No. RM2020–2, Order on Analytical Principles Used in Periodic Reporting (Proposal Ten), July 8, 2021 (Order No. 5932)).

[3] *See id.* at 3 (citing Docket No. RM2020–2, Library Reference PRC–LR–RM2020–2/5, July 8, 2021, at 1 (File A5)).

WSC changes. *See id.* at 11. In contrast, the Postal Service observes that its proposed MEDBPAC method averages the variabilities calculated at each Post Office used to estimate the logit models, and reflects the actual changes in cost associated with a given change in WSCs. *See id.* The Postal Service states that since most Post Offices have WSC levels that are unlikely to change EAS grades in response to a WSC change, the actual overall variability should be lower. *See id.*

The Postal Service calculated the impact of new Postmaster variabilities on costs of domestic Market Dominant products in Table 2.[4] The Postal Service asserts that lower new variabilities do not have a large impact on those costs, as unit Postmaster costs are low to begin with. *See id.* at 11.

III. Notice and Comment

The Commission establishes Docket No. RM2022–8 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *https://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Two no later than August 26, 2022. Pursuant to 39 U.S.C. 505, Madison Lichtenstein is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2022–8 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), filed July 7, 2022.

2. Comments by interested persons in this proceeding are due no later than August 26, 2022.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Madison Lichtenstein to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[4] *See id.* at 12, Table 2. The impact of the new variabilities on Competitive products are presented in the non-public materials submitted by the Postal Service, Excel file ''Non Public Impact.xlsx'' in Library Reference USPS–RM2022–8/NP1.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–15229 Filed 7–15–22; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2022–9; Order No. 6223]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Three). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 12, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On July 8, 2022, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal Three.

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Three), July 8, 2022 (Petition). The Postal Service also filed a notice of filing of non-public material relating to Proposal Three. Notice of Filing of USPS–RM2022–9–NP1 and Application for Nonpublic Treatment, July 8, 2022.

II. Proposal Three

Background. Proposal Three relates to the Revenue, Pieces, and Weight (RPW) reporting methodology for measuring the country-level totals of contract mailpieces in outbound international product categories bearing permit-imprint indicia. *See* Petition; *id.* Proposal Three at 1. The international outbound products at issue include Priority Mail International (PMI), First-Class Package International Service (FCPIS), Priority Mail Express International (PMEI), First-Class Mail International (FCMI), International Priority Airmail (IPA), International Surface Airlift (ISAL), and Commercial ePackets (CEPK). Proposal Three at 1. Currently, the Postal Service uses statistical sampling estimates from the System for International Revenue and Volume, Outbound, and International Origin Destination Information System (SIRVO–IODIS), along with estimates from Global Business System Dispatch (GBS Dispatch), to report the country-level totals. *See id.* The Postal Service also filed an assessment of the impact of the proposal on particular products in a non-public attachment accompanying this proposal.[2]

Proposal. The Postal Service's proposal seeks to replace the SIRVO–IODIS sampling estimates and the GBS Dispatch estimates used in the existing RPW reporting methodology with granular census data. *See id.* at 5. The Postal Service would use two auxiliary data sources for permit-imprint contract pieces: manifest information for PostalOne! customers using the Electronic Verification System (eVS) and, for other PostalOne! customers, barcodes of mailer-prepared receptacles in the GBS Dispatch system. *See id.* For PC Postage contract pieces, the Postal Service would determine destination-country information from a disaggregated National Meter Account Tracking System (NMATS) report containing activity by individual contract and product. *See id.*

Rationale and impact. The Postal Service states that, under the current methodology, certain country-level detail cannot be obtained directly and that approximations, which may contain sampling error or be imprecise, are used instead. *See id.* at 4. According to the Postal Service, such error and imprecision affect analyses of negotiated service agreements (NSAs), which analyses rely on country-level detail. *See id.* The Postal Service asserts that its proposed methodology could ''be used for more precise analyses of individual

[2] *See* Library Reference USPS–RM2022–9/NP1, July 8, 2022.

NSAs'' and would ''eliminate the impact of sampling error and GBS approximations,'' and would be expected ''to have equal or improved country-level data quality.'' *Id.* at 5–6.

The Postal Service states that its proposal would not directly affect ''the national totals of outbound international contract mail pieces reported in RPW.'' *Id.* at 5. However, the Postal Service expects that the proposed methodology ''would change the level of census weight for individual countries . . . .'' *Id.* at 6. As a result, the Postal Service states that the national totals for products that contain non-census weight (primarily FCMI and FCPIS Retail) would be indirectly affected ''because all census and sample data are controlled to GBS Dispatch weight for each expansion stratum.'' *Id.*

The Postal Service details these indirect effects in a version of the international outbound portion of the FY 2022 Q2 YTD RPW report showing data resulting from use of the proposed methodology compared to data resulting from use of the current methodology. *See* Petition, Attachment A at 1; Proposal Three at 6–7. According to the Postal Service, ''[t]he *indirect* effects of the proposal would cause small changes to Outbound First-Class Mail International (1.6 percent decrease in revenue and 2.2 percent decrease in volume) and First-Class Package International Service Retail (0.5 percent increase in revenue and 0.6 percent increase in volume).'' Proposal Three at 7 (emphasis in original). The Postal Service also states that ''[o]ther international categories would have smaller *indirect* effects: US. [sic] Postal Service Mail, Free Mail, and International Ancillary Services.'' *Id.* (emphasis in original). Finally, the Postal Service states that ''[o]verall, outbound international revenue and volume for Quarters 1 and 2 of FY 2022 would be reduced by 0.2 percent and 1.3 percent, respectively.'' *Id.* (footnote omitted).

III. Notice and Comment

The Commission establishes Docket No. RM2022–9 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *https://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Three no later than August 12, 2022. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2022–9 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Three), filed July 8, 2022.

2. Comments by interested persons in this proceeding are due no later than August 12, 2022.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Jennaca D. Upperman to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–15228 Filed 7–15–22; 8:45 am]

BILLING CODE 7710–FW–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 64

[CG Docket No. 17–59, WC Docket No. 17–97; FCC 22–37; FR ID 92926]

Advanced Methods To Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) proposes and seeks comment on a number of actions aimed protecting consumers from illegal calls. The document proposes and seeks comment on a number of steps to protect American consumers from all illegal calls, whether they originate domestically or abroad. Specifically, this document proposes to require domestic intermediate providers that are not gateway providers in the call path to apply STIR/SHAKEN caller ID authentication to calls. It also seeks comment on a number of robocall mitigation requirements, enhancements to enforcement, clarifications on certain aspects of STIR/SHAKEN, and limitations on the use of U.S. North American Numbering Plan (NANP) numbers for foreign-originated calls and indirect number access.

DATES: Comments are due on or before August 17, 2022, and reply comments are due on or before September 16, 2022. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before September 16, 2022.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in this document. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). Interested parties may file comments or reply comments, identified by CG Docket No. 17–59 and WC Docket No. 17–97 by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, 35 FCC Rcd 2788 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For further information, please contact either Jonathan Lechter, Attorney Advisor, Competition Policy Division, Wireline Competition Bureau, at *Jonathan.lechter@fcc.gov* or at (202) 418–0984, or Jerusha Burnett, Attorney Advisor, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at *jerusha.burnett@fcc.gov* or at (202) 418–0526. For additional information concerning the Paperwork Reduction Act proposed information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: You may submit comments, identified by the Commission's Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17–59 and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17–97, FCC 22–37, adopted on May 19, 2022, and released on May 20, 2022. The full text of this document is available for public inspection at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-22-37A1.pdf.* To request materials in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), or (202) 418–0432 (TTY).

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Cathy Williams, FCC, via email to *Cathy.Williams@fcc.gov.*

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due September 16, 2022.

Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

Seventh Further Notice of Proposed Rulemaking and Fifth Further Notice of Proposed Rulemaking

1. In the final rule regarding gateway providers (*Gateway Provider Order*) (FCC 22–37), published elsewhere in this issue of the **Federal Register**, the Commission takes steps to protect American consumers from foreign-originated illegal calls by adopting a number of rules that focus on gateway providers as the entry point onto the U.S. network. In this further notice of proposed rulemaking (*FNPRM*), the Commission further proposes and seeks comment on expanding some of these rules to cover other providers in the call path, along with additional steps to protect American consumers from all illegal calls, whether they originate domestically or abroad.

2. First, the Commission proposes to extend its caller ID authentication requirement to cover domestic intermediate providers that are not gateway providers in the call path. Second, the Commission seeks comment on extending some, but not all, of the robocall mitigation duties the Commission adopts in the *Gateway Provider Order* to all domestic providers in the call path. These mitigation duties include: expanding and modifying its existing affirmative obligations; requiring downstream providers to block calls from non-gateway providers when those providers fail to comply; the general mitigation standard; and filing a mitigation plan in the Robocall Mitigation Database regardless of STIR/SHAKEN implementation status. The Commission also seeks comment on additional measures to address illegal robocalls, including: ways to enhance the enforcement of its rules; clarifying certain aspects of its STIR/SHAKEN regime; and placing limitations on the use of U.S. NANP numbers for foreign-originated calls and indirect number access.

3. Because the TRACED Act defines ''voice service'' in a manner that excludes intermediate providers, our authentication and Robocall Mitigation Database rules use ''voice service provider'' in this manner. Our call blocking rules, many of which the Commission adopted prior to adoption of the TRACED Act, use a definition of ''voice service provider'' that includes intermediate providers. In that context, use of the TRACED Act definition of ''voice service'' would create inconsistency with our existing rules. To avoid confusion, for purposes of this item, we use the term ''voice service provider'' consistent with the TRACED Act definition and where discussing caller ID authentication or the Robocall Mitigation Database. In all other instances, we use ''provider'' and specify the type of provider as appropriate. Unless otherwise specified, we mean any provider, regardless of its position in the call path.

4. The Commission anticipates that the impact of its proposals will account for another large share of the annual $13.5 billion minimum benefit the Commission originally estimated in the *First Caller ID Authentication Report and Order,* 85 FR 22029 (April 21, 2020), and *FNPRM,* 85 FR 22099 (April 21, 2022), for eliminating unlawful robocalls, in addition to the collective impact of the rules the Commission adopts in the *Gateway Provider Order* and the rules adopted earlier in these proceedings. While each of the proposed requirements on their own may not fully accomplish that goal, viewed collectively, the Commission expects that they will achieve a large share of the annual $13.5 billion minimum benefit. The Commission also expects that this share of benefits will far exceed the costs imposed on providers. The Commission seeks comment on this analysis and on the possible benefits of the requirements the Commission proposes.

Extending Authentication Requirement to All Intermediate Providers

5. To further combat illegal robocalls consistent with the rules the Commission adopts in the *Gateway Provider Order,* the Commission proposes to require that all U.S. intermediate providers authenticate caller ID information consistent with

STIR/SHAKEN for Session Initiation Protocol (SIP) calls that are carrying a U.S. number in the caller ID field and to require all providers to comply with the most recent version of the standards as they are released. The Commission seeks comment on these proposals.

6. As the Commission has previously explained, application of caller ID authentication by intermediate providers ''will provide significant benefits in facilitating analytics, blocking, and traceback by offering all parties in the call ecosystem more information.'' At the time the Commission reached this conclusion, given the concerns that an authentication requirement on all intermediate providers ''was unduly burdensome in some cases,'' the Commission established that instead of authenticating unauthenticated calls, intermediate providers could ''register and participate with the industry traceback consortium as an alternative means of complying with [its] rules.''

7. Since the Commission established those requirements in the *Second Caller ID Authentication Report and Order,* 85 FR 73360 (Nov. 17, 2020), in the *Fourth Call Blocking Order,* 86 FR 17726 (April 6, 2021), the Commission subsequently required all providers in the call path—including gateway providers and other intermediate providers—to respond fully and in a timely manner to traceback requests. This rule has effectively mooted the choice given to intermediate providers in the earlier *Second Caller ID Authentication Report and Order* to authenticate calls or cooperate with traceback requests. Evidence shows that robocalls are a significant and increasing problem. To further strengthen the STIR/SHAKEN regime and protect consumers and the integrity of the U.S. telephone network, the Commission proposes that all intermediate providers should be required to authenticate unauthenticated SIP calls that they receive. The Commission seeks comment on this proposal.

8. Intermediate providers could play a crucial role in further promoting effective, network-wide caller ID authentication. Requiring all intermediate providers to authenticate caller ID information for all unauthenticated SIP calls will provide information to downstream providers that will facilitate analytics and promote traceback efforts. SHAKEN verification, even ''C-level'' attestation, provides relevant and helpful information to downstream providers, particularly as the STIR/SHAKEN regime becomes even more ubiquitous. Adopting this proposal would bring all U.S. providers within the STIR/SHAKEN regime and prevent gaming by providers, allowing ''for more robust abilities to either trust the caller or perform traceback because an illegal caller can be more easily identified.'' Indeed, STIR/SHAKEN becomes more useful the more providers there are that employ it.

9. The Commission believes this proposal is in line with commenter assertions that expanding call authentication requirements will have a ''significant impact in curtailing illegal robocalls'' and that imposing these obligations ''on more providers will promote fewer spoofed calls overall.'' The Commission anticipates that its expansion of the STIR/SHAKEN regime may spur other countries and regulators to develop and adopt STIR/SHAKEN, further increasing the standards' benefit. The Commission seeks comment on this analysis and on the possible benefits of the requirement the Commission proposes. Are there reasons the Commission should not require all intermediate providers to implement STIR/SHAKEN for SIP calls? Should the Commission specifically target providers that are most responsible for illegal robocalls? Are there any downsides to only targeting specific providers?

10. The Commission also seeks comment on the proposal's implementation costs and burdens. Acknowledging that many intermediate providers are also gateway providers to some degree and are now required to implement STIR/SHAKEN per the *Gateway Provider Order,* do the benefits of an intermediate provider authentication requirement outweigh the costs and burdens? Certain commenters assert that gateway providers are in a unique position to ''arrest the flow of harmful scam calls and illegal robocalls.'' Would it be a greater burden to impose this obligation on non-gateway intermediate providers? Indeed, a majority of commenters oppose expanding authentication requirements, even to gateway providers, saying that the implementation costs would be significant without additional benefits. While the Commission previously acknowledged these claims and ''thus offer[ed] an alternative method of compliance,'' it further noted that ''[p]roviding this option . . . further allows for continued evaluation of the role intermediate providers play in authenticating the caller ID information of the unauthenticated calls that they receive amid the continued deployment of the STIR/SHAKEN framework.'' Has the intervening experience with the entirety of the Commission's caller ID authentication requirements and illegal robocalls shed further light on the role of intermediate providers in preventing these calls from reaching consumers?

11. The Commission does not anticipate that its proposal to expand this requirement to the remaining intermediate providers will be unusually costly or unduly burdensome compared to gateway providers and voice service providers that are already required to authenticate unauthenticated SIP calls as commenters have not provided detailed support for assertions that such a requirement will cost significant time and resources to implement. Further, many of the remaining intermediate providers are also gateway providers that will have already implemented STIR/SHAKEN in at least some portion of their networks, likely lowering their compliance costs to meet the requirement the Commission proposes. Does this fact undercut the argument that expanding the authentication requirement would impose an undue burden on those providers? In the accompanying *Gateway Provider Order,* the Commission finds that the benefits of a gateway authentication requirement outweigh the burdens. Should the Commission's rationale differ regarding the remaining intermediate providers? The Commission reiterates that as more and more providers implement STIR/SHAKEN, the Commission anticipates that technology and solutions will be more widely available and less costly to implement. The Commission seeks comment on this analysis. Is there any reason to believe that authentication is more costly for the remaining intermediate providers as compared to other providers or that the benefit of lower-level attestations would be limited?

12. *Requirement.* The Commission proposes that to comply with the requirement to authenticate calls, all intermediate providers must authenticate caller ID information for all SIP calls they receive with U.S. numbers in the caller ID field for which the caller ID information has not been authenticated and which they will exchange with another provider as a SIP call. This would replace the existing rule under which intermediate providers have the option to authenticate rather than cooperate with traceback efforts and supplement the rule for gateway providers the Commission adopts in the accompanying *Gateway Provider Order.* The Commission seeks comment on this approach, as well as on whether and how to modify this proposal.

13. Consistent with the Commission's existing intermediate provider authentication obligation where such a provider chose the authentication route, and the rule adopted for gateway providers in the accompanying *Gateway Provider Order,* the Commission proposes that an intermediate provider satisfies its authentication requirement if it adheres to the three Alliance for Telecommunications Industry Solutions (ATIS) standards that are the foundation of STIR/SHAKEN—ATIS–1000074, ATIS–1000080, and ATIS–1000084—and all documents referenced therein. The Commission also proposes that compliance with the most current versions of these standards as of the compliance deadline set in the *Gateway Provider Order* released concurrently with this *FNPRM,* including any errata as of that date or earlier, represents the minimum requirement to satisfy its rules.

14. *Compliance Deadline.* The Commission seeks comment on when the Commission should require all intermediate providers' authentication obligation to become effective, balancing the public interest of prompt implementation by these providers with the need for these providers to have sufficient time to implement the proposed obligations. The Commission notes that voice service providers were previously able to meet the 18-month deadline to authenticate all unauthenticated SIP calls carrying U.S. NANP numbers, but the Commission found a shorter deadline to be reasonable for gateway providers in the accompanying *Gateway Provider Order.* The Commission's rules adopted pursuant to the TRACED Act grant certain providers exemptions and extensions from this deadline. Should the Commission require all intermediate providers to authenticate all unauthenticated SIP calls carrying U.S. NANP numbers within six months after the Commission adopts an order released pursuant to this *FNPRM*? Given that there is only a small group of remaining providers that have not already been required to implement STIR/SHAKEN, can implementation be accomplished in six months? Is a shorter deadline reasonable because the industry has much more experience with implementation than when the Commission originally required voice service providers to implement STIR/SHAKEN, and there is evidence that STIR/SHAKEN implementation costs have dropped since the Commission first adopted the requirement for voice service providers? Would imposing a shorter deadline on all intermediate providers unnecessarily impose greater costs and burdens that would not be fully offset by associated benefits? Are there any reasons to impose a longer deadline?

15. The Commission also anticipates that the current token access policy will not present a material barrier to intermediate providers meeting their authentication obligation and that the Secure Telephone Identity Governance Authority (STI–GA) can address any concerns before these providers are required to authenticate calls. Do commenters agree? Additionally, to ensure that these providers are not unfairly penalized and are eligible for the same relief, in line with the Commission's current rules for voice service providers, and now gateway providers, the Commission proposes to provide a STIR/SHAKEN extension to intermediate providers that are unable to obtain a token due to the STI–GA token access policy. Does this extension alleviate implementation concerns?

16. The Commission also proposes, consistent with its requirement for voice service providers and gateway providers, that all intermediate providers have the flexibility to assign the level of attestation appropriate to the call based on the applicable version of the standards and the available call information. As discussed in the accompanying *Gateway Provider Order,* there are significant benefits to be gained from higher attestation levels. The Commission seeks comment on this proposal. Should the Commission modify this proposal? If so, how should the Commission change it and what would be the impacts on costs and benefits?

17. *Authentication Obligations for All Providers.* The Commission also seeks comment on requiring all providers to comply with the current version of the STIR/SHAKEN standards (ATIS–1000074, ATIS–1000080, and ATIS–1000084) and any other internet Protocol (IP) authentication standards adopted as of the compliance deadline. The Commission concludes that mandating a single version of the standards across providers will promote uniformity and ensure that providers are using the most up-to-date caller ID authentication tools. The Commission seeks comment on this conclusion. Is there any reason the Commission should not require providers to comply with updated versions of the standards? The Commission also seeks comment on a streamlined mechanism for the Wireline Competition Bureau or other appropriate Bureau to require providers to comply with future versions of the STIR/SHAKEN standard as they are developed and made available. Should the Commission delegate to the Wireline Competition Bureau authority to require all providers to implement a newly available updated standard through notice and opportunity to comment? Should the Commission incorporate the most recent STIR/SHAKEN standards and any updates the Commission requires in its rules? What are the pros and cons of these approaches?

18. The Commission seeks comment on whether it should require all providers to adopt a non-IP caller ID authentication solution. A number of commenters filed specific proposals in the record for authentication on non-IP networks for gateway providers as well as voice service providers, and some of these solutions work on both IP and non-IP networks. Should the Commission adopt any of these proposals as set forth in the comments or in some modified form? What are the respective benefits and burdens of these specific proposals? Should the Commission adopt any of the time division multiplex (TDM) call authentication solutions developed by ATIS? Are there any other alternative proposals that the Commission should consider for all domestic providers in the call path? Should the Commission require compliance with the most recent version of a non-IP standard available at the time an order is released pursuant to this *FNPRM*? Should the Commission delegate authority to the Wireline Competition Bureau or other Bureau to require compliance with newly available versions of the adopted standard through notice and comment and incorporate by reference that standard in its rules? Voice service providers and gateway providers currently have a choice whether to implement a non-IP caller ID authentication solution or, in the alternative, participate with a working group, standards group, or consortium to develop a solution. In the event the Commission moves forward with requiring a non-IP solution for all providers, the Commission seeks comment on eliminating this alternative obligation as moot because the selected standard would have been developed and its implementation required.

Extending Certain Mitigation Duties to All Domestic Providers

19. The Commission seeks comment on broadening the classes of providers subject to certain mitigation obligations, including some of the obligations it adopts in the accompanying *Gateway Provider Order* for gateway providers. The Commission's existing rules, including the ''reasonable steps''

robocall mitigation duty, the Robocall Mitigation Database certification and mitigation program adoption and submission requirements, and the affirmative obligations for providers, do not currently apply to all domestic providers, with the exception of the requirement to respond to traceback. Prior to the adoption of the *Gateway Provider Order,* the ''reasonable steps'' mitigation duty and the requirement to adopt and submit a mitigation plan and certification applied only to originating providers, and the mitigation duty and plan submission requirements only applied to the extent that those providers had not yet fully implemented STIR/SHAKEN. Similarly, the rules that require effective mitigation or blocking following Commission notification require any provider that receives such a notification to investigate and respond to the Commission, but only requires originating and gateway providers to take specific action to prevent illegal traffic.

20. In the accompanying *Gateway Provider Order,* the Commission adopts several new or enhanced robocall mitigation obligations for gateway providers, as well as one for providers immediately downstream in the call path from the gateway provider. The Commission also extends the robocall mitigation program and certification requirements to gateway providers, regardless of whether they have implemented STIR/SHAKEN. Once these rules become effective, some providers will remain outside the scope of these requirements. To close this loophole, the Commission seeks comment on requiring *all* domestic providers, regardless of whether they have implemented STIR/SHAKEN, to comply with certain robocall mitigation requirements.

Enhancing the Existing Affirmative Obligations for All Domestic Providers

21. In the prior *Fourth Call Blocking Order,* the Commission adopted three affirmative obligations for providers to better protect consumers from illegal calls. In the *Gateway Provider Order,* the Commission enhanced two of these obligations for gateway providers and adopted a related know-your-upstream-provider requirement. Here, the Commission seeks comment on expanding two of those enhanced obligations, as well as enhancing the existing requirement for a provider to take affirmative, effective measures to prevent new and renewing customers from using its network to originate illegal calls.

22. *24-hour Traceback Requirement.* The Commission seeks comment on extending the requirement to respond to traceback requests from the Commission, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of the request to all U.S.-based providers in the call path. In the *Gateway Provider Order* the Commission requires gateway providers to respond to traceback requests within 24 hours due to the need for quick responses when foreign providers are also involved. Would requiring all domestic providers to respond within 24 hours provide additional benefit? Are there alternative reasons to require a 24-hour response when calls are wholly domestic?

23. If the Commission extends this requirement to cover all U.S-based providers in the call path, how should it address situations where providers may not be able to respond within 24 hours? The Commission recognizes that providers that do not receive many requests may be less familiar with the process, and that smaller providers in particular may struggle to respond quickly. Are there alternative approaches to the Commission's standard waiver process that would better address the needs of providers that cannot reliably respond within 24 hours?

24. In particular, the Commission seeks comment on whether it should adopt an approach to traceback based on volume of requests received, rather than position in the call path or size of provider. For example, should the Commission adopt a tiered approach that: requires providers with fewer than 10 traceback requests a month to respond ''fully and in a timely manner,'' without the need to respond within 24 hours; requires providers that receive from 10 to 99 traceback requests a month to maintain an average 24-hour response time; and requires providers with 100 or more traceback requests a month to always respond within 24 hours, barring exceptional circumstances that warrant relief through a waiver under the ''good cause'' standard of § 1.3 of the Commission's rules? These circumstances could include sudden unforeseen circumstances that prevent compliance for a limited period or for a limited number of calls. The Commission cautions that any applicant for waiver ''faces a high hurdle even at the starting gate.'' Would different thresholds be more appropriate for the tiers? Should the thresholds be based on the prior six months' average number of traceback requests or some other metric?

25. The Commission believes that, at least with regard to smaller providers, the number of requests received is indicative of whether a particular provider contributes significantly to the illegal call problem. The Commission seeks comment on this belief. Are there instances where a smaller provider might receive a high volume of traceback requests despite that provider being a good actor in the calling ecosystem? The Commission acknowledges that adopting requests-per-month thresholds will likely mean that larger providers will be required to respond within 24 hours even when those providers are good actors. However, the Commission believes that larger providers are well positioned to meet a 24-hour response requirement and, in fact, already generally do so. The Commission seeks comment on this belief. Are there any substantial cost issues or other issues the Commission should consider in adopting such a requirement?

26. *Blocking Following Commission Notification.* The Commission seeks comment on requiring all domestic providers in the call path to block, rather than simply effectively mitigate, illegal traffic when notified of such traffic by the Commission, regardless of whether that traffic originates abroad or domestically. The Commission believes that having a single, uniform rule may provide additional benefits and reduce the overall burden. The Commission seeks comment on this belief. Are there benefits to having a single, uniform requirement for all domestic providers? Alternatively, are there benefits to maintaining the Commission's existing approach and allowing non-gateway providers to effectively mitigate, rather than block, such traffic?

27. If the Commission extends this requirement and require non-gateway providers to block, should it consider any modifications to the rule? The Commission's effective mitigation rule requires a different response if the provider is an originating provider than if the provider is an intermediate or terminating provider. Specifically, the originating provider *must* effectively mitigate the traffic, while an intermediate or terminating provider must only notify the Commission of the source of the traffic and then, if possible, take steps to mitigate the traffic. As a result, there are four possible ways in which the Commission could enhance this rule: (1) it could require all providers, regardless of position in the call path, to block illegal traffic when notified of such traffic by the Commission; (2) it could requiring originating providers to block traffic when notified by the Commission, but only require intermediate and terminating providers to effectively

mitigate that traffic; (3) it could require originating providers to block illegal traffic when notified, but only require intermediate and terminating providers to identify the source of the traffic and, if possible, block; or (4) it could require originating providers to effectively mitigate illegal traffic, and require intermediate and terminating providers to block. In all of these cases, gateway providers would be required to block consistent with the rule the Commission adopted in the *Gateway Provider Order.* Are there particular benefits to any of these approaches? Are there any other approaches the Commission could take? Are there any cost difficulties or other issues the Commission should consider?

28. *Effective Measures to Prevent New and Renewing Customers from Originating Illegal Calls.* The Commission seeks comment on whether, and if so how, it should further clarify its rule requiring providers to take affirmative, effective measures to prevent new and renewing customers from using their network to originate illegal calls. In the *Fourth Call Blocking Order,* the Commission allowed providers flexibility to determine how best to comply with this requirement. Should the Commission now modify this approach? If so, what steps should the Commission require providers to take with regard to their customers? If the Commission should maintain its flexible approach, is there value in providing further guidance as to how providers can best comply? If so, what might this guidance include? Should the Commission extend a similar requirement to all providers in the call path, in place of or in addition to its existing requirement.

29. The Commission seeks comment on requiring originating providers to ensure that customers originating non-conversational traffic only seek to originate lawful calls. For example, should the Commission require originating providers to investigate such customers prior to allowing them access to high-volume origination services? If so, should the Commission require originating providers to take certain, defined steps as part of this investigation, or allow flexibility? Should the Commission require originating providers to certify, either in the Robocall Mitigation Database or through some other means, that they have conducted these investigations and determined that their customers are originating illegal calls? If a customer nonetheless uses an originating provider's network to place illegal calls, should the Commission adopt a strict liability standard, or allow the provider to terminate or otherwise modify its relationship with the customer and prevent future illegal traffic?

30. ZipDX states that ''non-conversational traffic'' is ''traffic that has an average call duration of less than two minutes.'' The Commission seeks comment on this proposed definition. While some illegal calls are ''conversational,'' many are not; the Commission believes that stopping non-conversational illegal calls would significantly reduce the number of illegal calls consumers receive. The Commission seeks comment on this belief. Is a focus on non-conversational traffic appropriate, or should the Commission maintain its broader focus on illegal calls generally? Alternatively, could the Commission focus on both: maintaining its existing requirement as to illegal calls generally, but adding enhanced obligations for non-conversational traffic?

31. The Commission believes that originating providers, as the providers with a direct relationship to callers, are in the best position to know what traffic a caller seeks to originate. The Commission seeks comment on this belief. Is the Commission's focus on originating providers correct, or should it include other providers, such as intermediate providers, as ZipDX suggests? If the Commission includes intermediate or terminating providers, should the requirement be the same, or modified? The Commission notes that there is wanted, and even important, non-conversational traffic. The Commission does not want emergency alerts, post-release follow up calls by hospitals, credit card fraud alerts, or similar important communication to be prevented by an intermediate or terminating provider that is not comfortable with potential liability for carrying non-conversational traffic. How could the Commission tailor its rules to allow this traffic to continue while still preventing illegal non-conversational traffic? Finally, the Commission seeks comment on alternative approaches. Should the Commission adopt all or some of ZipDX's specific proposals, which would impose obligations across the network, including requiring providers that choose to accept non-conversational traffic to meet certain obligations such as requiring A-level attestation for such calls, limiting of transit routes for these calls, and Robocall Mitigation Database certification? Are there any other approaches the Commission should consider?

Downstream Provider Blocking

32. The Commission seeks comment on requiring intermediate and terminating providers to block traffic from bad-actor providers, regardless of whether or not the bad actor is a gateway provider, pursuant to the Commission notification process it adopt in the *Gateway Provider Order* for providers downstream from the gateway. As discussed above, the Commission does not currently require any providers other than gateway or originating providers to block or effectively mitigate illegal traffic when notified by the Commission. In the *Gateway Provider Order* the Commission further requires the intermediate or terminating provider immediately downstream to block all traffic from the identified provider when notified by the Commission that the gateway provider failed to block. There is also an existing safe harbor for any provider to block traffic from a bad-actor provider. The Commission is concerned that the lack of consistency across all provider types could allow for unintended loopholes and it believes that having a single, uniform rule may provide additional benefits and reduce the overall burden. The Commission seeks comment on this belief. Are there any situations where the Commission should not require downstream providers to block all traffic from a bad-actor provider that has failed to meet its obligation to block or effectively mitigate? For example, if the Commission requires originating providers to block calls upon Commission notification, but only require intermediate and terminating providers to effectively mitigate such traffic, should its downstream provider blocking rule treat the originating provider for that traffic differently from an intermediate provider? If so, how? Are there risks to expanding this requirement to cover all domestic providers? If so, do the benefits justify these risks and their associated costs? If not, should the Commission take another approach to ensure that bad-actor providers cannot continue to send illegal traffic to American consumers? If the Commission extends the requirement, should it use the process described in the *Gateway Provider Order* or modify that process in some way? Are there any other issues the Commission should consider?

General Mitigation Standard

33. In line with the rule for voice service providers that have not implemented STIR/SHAKEN due to an extension or exemption and the general mitigation standard the Commission adopts in the *Gateway Provider Order* for gateway providers, in addition to specific mitigation requirements for

which the Commission seeks comment above, the Commission proposes to extend a general mitigation standard to voice service providers that have implemented STIR/SHAKEN in the IP portions of their networks and to all intermediate providers. This standard would be the general duty to take ''reasonable steps'' to avoid originating or terminating (for voice service providers) or carrying or processing (for intermediate providers) illegal robocall traffic. This obligation would include filing a mitigation plan along with a certification in the Robocall Mitigation Database. In line with the Commission's rules for voice service providers and the rules it adopts for gateway providers in the accompanying *Gateway Provider Order,* the Commission proposes that such a plan is ''sufficient if it includes detailed practices that can reasonably be expected to substantially reduce the origination [or carrying or processing] of illegal robocalls.'' The Commission also proposes that a program is insufficient if a provider ''knowingly or through negligence'' serves as the originator or carries or processes calls for an illegal robocall campaign. Similar to the Commission's reasoning related to gateway providers, the Commission anticipates that a general mitigation obligation on all domestic providers would serve as ''an effective backstop to ensure robocallers cannot evade any granular requirements [the Commission] adopt[s].'' Are there reasons the Commission should not extend to all domestic providers the same general mitigation standard it adopts in the accompanying *Gateway Provider Order*? To the extent providers' networks are non-IP based, the Commission recognizes that they do not currently have an obligation to implement STIR/SHAKEN and thus already have an existing mitigation requirement. Should the Commission alter the general mitigation standard for all remaining providers in any way? If so, what should those modifications be?

34. The Commission anticipates that extending these requirements to all domestic providers would ease administration because U.S.-based providers would then be subject to the same obligations for all calls, regardless of the providers' respective roles in the call path. Regulatory symmetry would obviate the need for a carrier to engage in a call-by-call analysis to determine the role the provider plays for any given call—*e.g.,* an intermediate provider may serve as a gateway provider for some calls but not for others—and ''ensure the accountability of all providers that touch calls to U.S. consumers, regardless of whether they originate, serve as the gateway provider, or simply [carry or process] illegal robocalls.'' Some commenters have asserted this is very difficult and burdensome. Are there additional benefits of imposing these requirements on all domestic providers? Are there any significant burdens if the Commission imposes these requirements on all domestic providers?

35. For the same reasons the Commission describes in the accompanying *Gateway Provider Order,* the Commission proposes adopting the ''reasonable steps'' standard for providers that have implemented STIR/SHAKEN in the IP portions of their networks rather than a standard building upon the obligation for providers to mitigate traffic by taking ''affirmative, effective measures to prevent new and renewing customers from using their network to originate illegal calls'' adopted in the *Fourth Call Blocking Order.* The Commission reiterates that the ''affirmative, effective measures'' standard does not apply to existing customers and focuses on call origination. Regardless, under the current rules and the rules the Commission adopts in the *Gateway Provider Order,* providers must still comply with the requirements to know the upstream provider or to take affirmative, effective measures to prevent new and renewing customers from using the network to originate illegal calls, as applicable, and steps a provider takes to meet one standard could meet the other, and *vice versa.*

36. *Strengthening the Definition of ''Reasonable Steps.''* Rather than encouraging providers to regularly consider whether their current measures are effective and make adjustments accordingly to comply with the ''reasonable steps'' standard, the Commission seeks comment on whether it should instead define ''reasonable steps'' to require all domestic providers to take specific mitigation actions. What would such a definition look like? Is the Commission's standards-based approach sufficient? If not, what, if any, are specific ''reasonable steps'' the Commission can prescribe to avoid origination, carrying, and processing of illegal robocall traffic other than prohibiting providers from accepting traffic from providers that have not submitted a certification in the Robocall Mitigation Database or have been de-listed from the Robocall Mitigation Database pursuant to enforcement action?

37. Certain commenters assert that more prescriptive rules will ensure that providers take reasonable steps to stop illegal robocalls. For example, should the Commission require traffic monitoring for upstream service or any other specific type of traffic monitoring? Should any particular traffic monitoring metrics be used? Should providers be required to take any other specific actions to show compliance with their robocall mitigation plan to meet this standard? Should there be a higher burden for voice over internet protocol (VoIP) providers to meet the ''reasonable steps'' standard? If so, what would such a higher burden look like? Are other specific modifications to the ''reasonable steps'' standard appropriate?

38. The Commission believes it is important to close any existing loopholes and ensure that all domestic providers are subject to the same requirements regardless of their place in the call path, even though the Commission previously declined to follow a ''one-size-fits-all'' approach to mitigation. The Commission believes the benefits of such an approach would outweigh any burdens on providers. Are these expectations correct? What are the benefits of clarifying and expanding the Commission's requirements to all domestic providers? What are the costs or burdens associated with doing so?

39. *Compliance Deadline.* The Commission seeks comment on an appropriate deadline for all domestic providers not covered by the existing requirements for voice service providers or the requirements it adopts in the accompanying *Gateway Provider Order* for gateway providers to comply with the proposed ''reasonable steps'' standard. Would 30 or 60 days after the effective date of any order the Commission may adopt imposing this requirement on these providers be sufficient? Are there any reasons the Commission should subject any remaining providers to a longer or shorter deadline? The Commission seeks comment on an appropriate deadline that is consistent with the time and effort necessary to implement the standard, balanced against the public benefit that will result in rapid implementation of the standard. What, if any, are the benefits and drawbacks of a shorter deadline? What, if any, are the benefits and drawbacks of a longer deadline?

Robocall Mitigation Database

40. *Robocall Mitigation Database Filing Obligation.* In line with the requirement the Commission adopts in the *Gateway Provider Order* for gateway providers, it proposes to require all intermediate providers to submit a certification to the Robocall Mitigation

Database describing their robocall mitigation practices and stating that they are adhering to those practices, regardless of whether they have fully implemented STIR/SHAKEN. The Commission notes that all intermediate providers previously were imported into the Robocall Mitigation Database from the rural call completion database's Intermediate Provider Registry. The Commission now proposes to have these imported intermediate providers affirmatively file in the Robocall Mitigation Database. The Commission also proposes to require voice service providers that have already filed a certification to submit a robocall mitigation plan to the extent they previously were not required to do so due to fully implementing STIR/SHAKEN.

41. The Commission proposes to conclude that certification, operating in conjunction with the previous rules and new robocall mitigation obligations it adopts in the *Gateway Provider Order,* would encourage compliance and facilitate enforcement efforts and industry cooperation to address problems. A number of commenters recommended this proposal. Similar to the Commission's findings for gateway providers above, the Commission does not anticipate that a filing requirement would be more costly for other providers than it is for voice service providers that already have an obligation to file in the Robocall Mitigation Database. Are there reasons that all intermediate providers should not be required to submit a certification? Do the remaining providers face additional costs as compared to providers already subject to this requirement under the Commission's existing rules and the rule it adopts in the *Gateway Provider Order* that the Commission should consider? Are there other possible filing obligations that the Commission should impose instead of the requirement to file a certification in the Robocall Mitigation Database?

42. The Commission also proposes that all intermediate providers submit the same information that voice service providers, and now gateway providers, are required to submit under the Commission's rules. Specifically, the Commission proposes that all intermediate providers must certify to the status of STIR/SHAKEN implementation and robocall mitigation on their networks; submit contact information for a person responsible for addressing robocall mitigation-related issues; and describe in detail their robocall mitigation practices. The Commission proposes that voice service providers that were not previously required to submit a robocall mitigation plan describe in detail their robocall mitigation practices. Should these providers be subject to the additional obligation that the Commission adopts for gateway providers in the *Gateway Provider Order, i.e.,* should the Commission require all domestic providers to explain what steps they are taking to ensure that the immediate upstream provider is not using their network to transmit illegal calls? Is it useful for all remaining providers to include this information? Should the Commission modify the identifying information that all domestic providers must file (both providers with a current certification obligation and those without)? The Commission anticipates that the burden is limited if it does not adopt a requirement for how detailed this explanation must be. Are there any reasons the Commission should require a more detailed explanation of the steps a provider has taken to meet their robocall mitigation obligations? Again, the Commission anticipates the Commission and public will benefit from understanding how these providers choose to comply with this specific duty because compliance is critical to stopping the carrying or processing of illegal robocalls.

43. In line with the new rules applicable to gateway providers, the Commission proposes to delegate to the Wireline Competition Bureau the authority to specify the form and format of any submissions. The Commission further proposes that this would include whether providers with more than one role in the call path may either submit a separate certification and plan or amend their current certification and any plan and that providers amending their current plan to cover different roles in the call path explain the mitigation steps they undertake as one type of provider and what mitigation steps they undertake as a different type of provider, to the extent they are different.

44. The Commission also proposes to extend to all domestic providers the duty to update their certification within 10 business days of ''any change in the information'' submitted, ensuring that the information is kept up to date, in line with the existing and new requirements for voice service providers and gateway providers, respectively. Is another time period appropriate for some or all of the information the Commission requires? Should the Commission establish a materiality threshold for circumstances in which an update is necessary for remaining providers, and, if so, what threshold should it set? In the *Gateway Provider FNPRM,* 86 FR 59084 (Oct. 26, 2021), the Commission sought comment regarding whether it should require gateway providers to inform the Commission through an update to the Robocall Mitigation Database filing if the provider is subject to a Commission, law enforcement, or regulatory agency action, investigation, or inquiry due to its robocall mitigation plan being deemed insufficient or problematic, or due to suspected unlawful robocalling or spoofing activity. In the *Gateway Provider Order,* the Commission declines to adopt this proposal so that it may more broadly ask the question regarding all domestic providers. Thus, the Commission now seeks comment on this proposal for all domestic providers.

45. *Compliance Deadline.* The Commission also seeks comment on an appropriate deadline for all domestic providers to submit a certification and mitigation plan to the Robocall Mitigation Database attesting to compliance with the proposed ''reasonable steps'' standard. Is 30 days following publication in the **Federal Register** of notice of approval by OMB of any associated Paperwork Reduction Act (PRA) obligations sufficient, as many intermediate providers are already required to mitigate call traffic? What are the benefits and drawbacks of a longer deadline? The Commission seeks comment on an appropriate deadline that is consistent with the time and effort necessary to implement this requirement, balanced against the public benefit that will result in rapid implementation of the requirement. If the Commission adopts an earlier deadline than the requirement to implement STIR/SHAKEN, should it require that, if a provider has not yet implemented STIR/SHAKEN at that time, the provider must file its certification by the deadline and indicate that it has not yet fully implemented STIR/SHAKEN and that it then update the filing within 10 business days of STIR/SHAKEN implementation, in line with its existing rule for updating such a filing? Are there any other filing deadline issues the Commission should consider? The Commission seeks comment on any modifications it should make to the filing process for these remaining providers.

46. *Additional Identifying Information.* While the Commission sought comment in the *Gateway Provider FNPRM* on whether all Robocall Mitigation Database filers should submit additional identifying information, the Commission does not act on this issue in the accompanying *Gateway Provider Order* so that it may

both develop a more fulsome record at the same time it considers imposing other obligations on all domestic providers, including the obligation for all intermediate providers to file a certification in the Robocall Mitigation Database. The Commission thus seeks further comment on requiring all filers to include additional identifying information. While the Commission sought comment in the *Gateway Provider FNPRM* on including information such as a Carrier Identification Code, Operating Company Number, and/or Access Customer Name Abbreviation, is this information still relevant given that the September 2021 blocking deadline has now passed? Is there other additional information the Commission should require? For example, the Commission proposes to require filers to add information regarding principals, known affiliates, subsidiaries, and parent companies. The Commission seeks comment on this proposal. Will such information help identify bad actors and further the Commission's enforcement efforts, such as by identifying bad actors previously removed from the Robocall Mitigation Database that continue to be affiliated with other entities filing in the Robocall Mitigation Database? Will such information ease and enhance compliance by facilitating searches within the Robocall Mitigation Database and cross-checking information within the Robocall Mitigation Database against other sources? If the Commission requires all domestic providers to submit additional identifying information, how long should providers already in the database have to update information, or should such a requirement be applied on a prospective-only basis? Does the benefit of additional information outweigh the burden of asking a high number of providers to refile? What are the benefits of a prospective-only approach? Would this approach still be beneficial if only some filers submitted this information? Are there any categories of filer, such as foreign voice service providers that use NANP resources that pertain to the United States in the caller ID field, that are unlikely to have this identifying information? If so, how should any new requirements address these filers? Should the Commission require providers to submit information demonstrating that they are foreign or domestic, and should the Commission modify its provider definitions to address this issue? Alternatively, should the Commission consider making the submission of this additional information voluntary to avoid a refiling requirement and account for filers that do not possess the information? Or would submission on a voluntary basis provide little benefit? If the Commission requires submission of additional information by some or all filers, what deadline for filing should it set?

47. The Commission also seeks comment on any potential changes it should make to the Robocall Mitigation Database to make the filing process easier for providers and to facilitate searches by the Commission. For example, should the Commission allow providers who indicate they are ''fully compliant with STIR/SHAKEN'' to still submit additional information regarding their compliance (*e.g.,* if they obtained their own token or if they are relying on another arrangement)? Should the database allow for any other explanations or voluntary information submissions? What other changes to the database or filing process would make compliance easier or more efficient for providers? If revising a filing is burdensome, what steps can the Commission take to reduce that burden? Is the burden of requiring revisions outweighed by the benefits to be obtained from the additional information?

48. *Specific Areas to Be Described in Robocall Mitigation Plan.* The Commission seeks comment on whether a robocall mitigation program should be considered sufficient if it only ''includes detailed practices that can reasonably be expected to significantly reduce the origination of illegal robocalls. Does this requirement need to be further articulated? The Commission seeks comment on specific areas or topics to be described in the mitigation plan submitted to the Robocall Mitigation Database. What, if any, specific types of mitigation must be described in plans submitted to the database? For example, should providers be required to ''describe with particularity'' in their robocall mitigation plans the processes providers follow ''to know the identities of the upstream service providers they accept traffic from and to monitor those service providers for illegal robocall traffic''? That is, should the Commission require all domestic providers to describe their ''know-your-upstream provider'' processes? Should providers indicate whether they use analytics providers and/or describe the analytics they use? Should all domestic providers describe any contractual requirements for upstream providers? Should all domestic providers include ''the process and the actions'' they take when they ''become aware of it, including when alerted of such traffic by the Commission or the traceback consortium'' regarding illegal traffic on their network, as suggested by USTelecom? Would taking any or all of these actions better protect U.S. consumers from illegal robocalls?

49. *Certifications and Data from Intermediate Providers Previously Imported into the Robocall Mitigation Database.* The Commission proposes to delegate decisions regarding the certifications and data of intermediate providers previously imported into the Robocall Mitigation Database to the Wireline Competition Bureau, as the Commission does for gateway providers that were previously imported into the database as intermediate providers in the accompanying *Gateway Provider Order.* If the Commission takes this approach, should it provide any additional guidance to the Wireline Competition Bureau and what would such additional guidance look like? Some commenters indicate that intermediate providers previously imported into the Robocall Mitigation Database should only have to ''supplement their [Robocall Mitigation Database] entry by submitting a mitigation plan without having to completely refile,'' while others assert that intermediate providers' imported data should be deleted from the database. Should the Commission instead adopt one of these proposals and direct the Wireline Competition Bureau to remove or update these imported certifications and data from the database? What are the benefits and burdens of allowing these providers to update their data versus having them completely refile?

50. *Intermediate Provider Blocking Obligation.* The Commission proposes to require downstream providers to block traffic received directly from all intermediate providers that are not listed and have not affirmatively filed a certification in the Robocall Mitigation Database or have been removed through enforcement action. Doing so will close a loophole in the Commission's rules by ensuring that any provider's traffic will be blocked if its certification does not appear in the Robocall Mitigation Database. It will also obviate any concerns regarding how downstream providers can determine if an upstream provider is a voice service provider, gateway provider, or other domestic intermediate provider. There was record support for this approach, which will equalize treatment of all domestic providers. The Commission seeks comment on doing so. What, if any, are the unique costs and benefits to applying this rule to domestic intermediate providers' traffic? Are there any modifications the Commission

should make when applying this rule to intermediate providers other than gateway providers? In the *Order,* the Commission requires downstream providers to block traffic from an immediate upstream provider where the upstream provider had not affirmatively filed in the Robocall Mitigation Database and they had a reasonable basis to believe that the immediate upstream provider was either a voice service provider or a gateway provider for some calls. The Commission proposes to eliminate this requirement as moot if it adopts the proposed requirement for downstream providers to block traffic from domestic intermediate providers that have not affirmatively filed in the Robocall Mitigation Database; downstream providers will no longer need to determine the upstream provider type before making a blocking determination. The Commission seeks comment on this approach.

51. The Commission proposes that downstream providers be required to block traffic from non-gateway intermediate providers that have not submitted a certification in the Robocall Mitigation Database 90 days following the deadline for intermediate providers to file a certification. This proposed deadline is consistent with both the rule the Commission adopted in the accompanying *Gateway Provider Order* and the rule for voice service providers. The Commission seeks comment on this proposal and whether an alternative deadline is appropriate.

Enforcement

52. The Commission's rules are only as effective as its enforcement. To that end, the Commission proposes to: (1) impose forfeitures for failures to block calls on a per-call basis and establish a maximum forfeiture amount for such violations; (2) impose the highest available forfeiture for failures to appropriately certify in the Robocall Mitigation Database; (3) establish additional bases for removal from the Robocall Mitigation Database, including by establishing a ''red light'' feature to notify the Commission when a newly-filed certification lists a known bad actor as a principal, parent company, subsidiary, or affiliate; and (4) subject repeat offenders to proceedings to revoke their section 214 operating authority and to ban offending companies and/or their individual company owners, directors, officers, and principals from future significant association with entities regulated by the Commission.

53. *Failure to Block Calls.* Mandatory blocking is an important tool for protecting American consumers from illegal robocalls. Penalties for failure to comply with the Commission's existing or newly adopted mandatory blocking requirements must be sufficient to ensure that entities subject to its mandatory blocking requirements suffer a demonstrable economic impact. Given that bad actors profit from illegal robocalls, the Commission tentatively concludes that it should impose forfeitures for failure to block after Commission notice on a per-call basis. For example, if ABC Provider fails to block 100 calls, it will be subject to the maximum forfeiture amount for each of those 100 calls. The Commission seeks comment on this proposal. What are the pros and cons of the Commission's proposal? If adopted, should it be applicable to all domestic providers? Should the Commission exclude certain types of mandatory blocking from this approach? For example, should the Commission take a different approach for blocking based on a reasonable do-not-originate (DNO) list? Is there any reason why this last approach would be impracticable or unreasonable?

54. The Commission proposes to authorize that forfeitures for violations of its mandatory blocking rules be imposed on a per-call basis, with a maximum forfeiture amount for each violation of the proposed mandatory blocking requirements of $22,021 per violation. This is the maximum forfeiture amount the Commission's rules permit it to impose on non-common carriers. While common carriers may be assessed a maximum forfeiture of $220,213 for each violation, the Commission proposes to find that it should not impose a greater penalty on one class of providers than another for purposes of the mandatory blocking requirements. The Commission seeks comment on this proposal. Is there any reason to permit a higher maximum forfeiture for violation of the blocking requirements by providers that the Commission has determined to qualify as common carriers? Is one class of providers more likely than another to violate these rules? If so, is that a basis for imposing different forfeiture amounts? Are there particular aggravating or mitigating factors the Commission should take into consideration when determining the amount of a forfeiture penalty? Are the aggravating and mitigating factors set forth in the Commission's rules sufficient? Should failure to block calls to emergency services providers or public safety answering points (PSAPs) or to numbers on a reasonable DNO list constitute aggravating factors to be considered in calculating a forfeiture amount?

55. *Provider Removal from the Robocall Mitigation Database.* The Commission's voice service provider rules provide that if the Commission ''finds a certification is deficient in some way, such as if the certification describes a robocall mitigation program that is ineffective'' or ''that a provider nonetheless knowingly or negligently originates illegal robocall campaigns,'' the Commission ''may take enforcement action as appropriate.'' These enforcement actions may include, among others, removing a defective certification from the database after providing notice to the voice service provider and an opportunity to cure the filing. The Commission may, of course, impose a forfeiture in addition to removing the provider from the Robocall Mitigation Database. The Commission seeks comment on whether intermediate providers (other than gateway providers), in addition to voice service providers and gateway providers, should be subject to the removal of provider certifications from the Robocall Mitigation Database. Are there any other reasons the Commission should de-list or exclude providers from the Robocall Mitigation Database? The Commission proposes to expand its delegation of authority to the Enforcement Bureau codified in the *Gateway Provider Order* to de-list or exclude a provider from the Robocall Mitigation Database so that it applies to *all* providers. The Commission seeks comment on this proposal. Should the Commission automatically exclude providers or start an enforcement action for providers that look suspicious due to multiple traceback requests? Should the Commission automatically remove a provider from the database for its prior illegal or bad actions related to and/or unrelated to robocalling? Should the Commission automatically remove a provider from the database for bad actions by an affiliate provider related or unrelated to robocalling? What other provider actions would warrant removal from the Robocall Mitigation Database? Under the Commission's current rules, when a voice service provider is removed from the Robocall Mitigation Database, downstream providers must block that provider's traffic. Should the Commission deviate from this approach?

56. *Continued violations.* The Commission proposes to find that individuals and entities that engage in continued violations of its robocall mitigation rules raise substantial questions regarding their basic qualifications to engage in the provision

of interstate common carrier services. The Commission thus proposes that such entities be subject to possible revocation of their section 214 operating authority, where applicable, and that any principals (either individuals or entities) of the bad actor entity be banned from serving, either directly or indirectly, as an attributable principal or as an officer or director in any entity that applies for or already holds any FCC license or instrument of authorization for the provision of a regulated service subject to Title II of the Communications Act of 1934 (the Act) or of any entity otherwise engaged in the provision of voice service for a period of time to be determined. For purposes of any such revocation, the Commission proposes to define ''attributable principal'' as: (1) in the case of a corporation, a party holding 5% or more of stock, whether voting or nonvoting, common or preferred; (2) in the case of a limited partnership, a limited partner whose interest is 5% or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses); (3) in the case of a general partnership, a general partner; and (4) in the case of a limited liability company, a member whose interest is 5% or greater. The Commission seeks comment on these proposals and on any alternative proposals or attribution criteria. For purposes of the definition of ''attributable principal,'' is 5% stock ownership or interest an appropriate threshold? For purposes of determining foreign ownership limits under section 310(b)(4) of the Act (regarding common carrier wireless licenses or media licenses), an applicant must disclose any individual foreign investor or group acquiring a greater than 5% voting or equity interest in the licensee. This reflects ''the Commission's longstanding determination, in both the broadcast and common carrier contexts, that a shareholder with a less than five percent interest does not have the ability to influence or control core decisions of the licensee.'' Would 10% stock ownership or interest or some lesser or higher threshold be more appropriate?

57. Many of the providers that would come within the purview of this proposed rule may not be classified as common carriers and thus may not operate subject to the blanket section 214 authority applicable to domestic interstate common carriers under § 63.01 of the Commission's rules. Interconnected VoIP providers are required to file applications to discontinue service under section 214 of the Act and § 63.71 of the Commission's rules. Providers not classified as common carriers may hold other Commission-issued authorizations or certifications. The Commission proposes to find that such carriers that have an international section 214 authorization, have applied for and received authorization for direct access to numbering resources, or are designated as eligible telecommunications carriers under section 214(e) of the Act in order to receive federal universal service support hold a Commission authorization sufficient to subject them to the Commission's jurisdiction for purposes of enforcing its rules pertaining to preventing illegal robocalls. Finally, The Commission proposes to find that providers not classified as common carriers registered in the Robocall Mitigation Database hold a Commission certification such that they are subject to the Commission's jurisdiction. The Commission seeks comment on these proposed findings and whether they serve as sufficient legal authority for the Commission to seek either revocation of an individual or entity's section 214 operating authority or to impose a ban on an individual or entity from operating in the telecommunications space as described above. Are there any other bases for jurisdiction or legal authority for the Commission to take such action?

Obligations for Providers Unable To Implement STIR/SHAKEN

58. The Commission seeks comment on whether additional clarity is needed regarding the Commission's rules applicable to certain providers lacking facilities necessary to implement STIR/SHAKEN. The Commission has previously clarified that the STIR/SHAKEN implementation requirement ''do[es] not apply to providers that lack control of the network infrastructure necessary to implement STIR/SHAKEN.'' The Commission notes that it accelerated the STIR/SHAKEN implementation deadline for another class of providers (*i.e.,* non-facilities-based small voice service providers). A provider is non-facilities-based if it ''offers voice service to end-users solely using connections that are not sold by the provider or its affiliates.'' The Commission clarifies that some ''non-facilities-based'' small providers may also meet the definition of a provider that does not have control of the necessary infrastructure to implement STIR/SHAKEN. If so, that provider does not have a STIR/SHAKEN implementation obligation. The *Small Provider Order,* 87 FR 3684 (Jan. 25, 2022), did not expand or contract the universe of providers required to implement STIR/SHAKEN on the IP portions of their network; it only accelerated the implementation deadline for a subset of providers already subject to an implementation obligation. In the time since, however, the Commission has granted certain providers extensions, as well as established the Robocall Mitigation Database filing requirement. Should the Commission further clarify to whom the STIR/SHAKEN implementation requirement does not apply?

59. Given that providers must block traffic from originating providers not listed in the Robocall Mitigation Database, some providers, including resellers, have filed, irrespective of any obligation to do so. The Commission observes that the Robocall Mitigation Database portal does not prevent these providers from filing. To address this issue, should the Commission amend its rules to deem providers that lack control of the necessary infrastructure to implement STIR/SHAKEN as instead having a continuing extension? The Commission's rules require that voice service providers granted an extension perform robocall mitigation. Should the providers identified above be required to perform robocall mitigation, at least to the extent that they are able despite their lack of control over network infrastructure? If not, why not?

60. These providers may possess information about their customers that the underlying provider (in the case of resellers) may not be aware of or privy to. Should the Commission impose a know-your-customer obligation on these providers, even though they do not have an obligation to implement STIR/SHAKEN, or are its existing requirements outside of the STIR/SHAKEN context sufficient? Is the Commission's existing flexible approach sufficient, or should the Commission impose more specific requirements? Should such providers be required to communicate relevant information about their customers to underlying providers, and to what extent?

Satellite Providers

61. The Commission seeks comment on whether the TRACED Act applies to satellite providers, and, if so, whether it should grant such providers an extension for implementing STIR/SHAKEN. The Commission's rules, consistent with the TRACED Act, provide that a ''voice service'' is ''any service that . . . furnishes voice communications to an end user using resources from the North American Numbering Plan.'' The Satellite Industry Association (SIA) argues that the

Commission's STIR/SHAKEN rules should not apply to satellite providers because their voice services do not satisfy the definition set out in its rules and in the TRACED Act. SIA asserts that their services ''rely on non-NANP resources for their originating numbers'' and that they use U.S. NANP resources only ''to forward calls to a small satellite [provider] subscriber's non-NANP number, or direct assignment of NANP numbers to a very small subset of small satellite customers.'' Does the Commission's authority under the TRACED Act extend to satellite providers that do not use NANP resources? Does the Commission's authority to require satellite providers to implement STIR/SHAKEN apply to all satellite providers regardless of the scope of the TRACED Act? What about to the extent any satellite providers use NANP numbers for the limited purposes described by SIA? Does use of NANP resources for forwarding calls to non-NANP numbers render that service a ''voice service'' within the TRACED Act's? Do a *de minimis* number of satellite provider subscribers use NANP resources only as SIA describes above, or are there ways these subscribers use NANP resources that SIA does not describe? Should there be a *de minimis* exception to the Commission's rules? If so, how should the Commission define *de minimis* for this purpose?

62. In addition to satellite providers' apparently limited use of U.S. NANP resources that SIA argues is generally outside the scope of the TRACED Act, SIA contends that requiring implementation of STIR/SHAKEN would pose an undue hardship due to unique economic and technological challenges the industry faces. Would requiring satellite providers, irrespective of their use of U.S. NANP resources, to implement STIR/SHAKEN pose an undue hardship? Is it technically feasible for satellite providers to implement STIR/SHAKEN? To what extent are satellite providers the source of illegal robocalls? Do they account for enough of the $13.5 billion cost to American consumers to outweigh the burden on them posed by having to implement STIR/SHAKEN? The Commission has previously provided small voice services providers, including satellite providers, an extension from STIR/SHAKEN implementation until June 30, 2023. When the Wireline Competition Bureau reevaluated this extension in 2021, it declined to grant a request from SIA for an indefinite extension and stated that it would seek further comment on SIA's request before the June 30, 2023 extension expires. The TRACED Act requires that the Commission, 12 months after the date of the TRACED Act's enactment, and thereafter ''as appropriate,'' assess burdens or barriers to implementation of STIR/SHAKEN. The TRACED Act further provides the Commission discretion to extend compliance with the implementation mandate ''upon a public finding of undue hardship.'' Not less than annually thereafter, the Commission must consider revising or extending any delay of compliance previously granted and issue a public notice regarding whether such delay of compliance remains necessary. The Commission directed the Wireline Competition Bureau to make these annual assessments and to reevaluate the Commission's granted extensions and revise or extend them as necessary. The Commission seeks comment on whether it should grant SIA's request for an indefinite extension for satellite providers. In the alternative, should satellite providers be granted a continuing extension? If so, how long should such an extension be?

Restrictions on Number Usage and Indirect Access

63. The Commission seeks comment on possible changes to its numbering rules to prevent the misuse of numbering resources to originate illegal robocalls, particularly calls originating abroad. In the *Direct Access FNPRM,* 86 FR 51081 (Sept. 14, 2021), the Commission sought comment placing limitations on interconnected VoIP providers' use of numbering resources obtained pursuant to direct access authorizations the Commission grants. The Commission now seeks comment on whether it should implement broader limitations in order to prevent illegal robocalls and whether other countries' regulations may provide a useful roadmap for its own.

64. *Restrictions on Use of U.S. NANP Numbers for Foreign-Originated Calls.* The Commission seeks comment on whether it should adopt restrictions on the use of domestic numbering resources for calls that originate outside of the United States for termination in the United States. The Commission notes that, according to providers and foreign regulators, other countries, such as Singapore and South Korea, have placed limitations on the use of domestic numbering resources for foreign-originated calls that terminate domestically. The Infocomm Media Development Authority of Singapore (IMDA) has required operators to add a ''+'' prefix to international incoming calls, and IMDA is working with operators to block known numbers with the new prefix used for scams, especially +65 (Singapore's country code). Australia has a similar rule. Should the Commission adopt a similar restriction? Should the Commission, as YouMail argues, establish a specific area code for foreign-originated calls? If so, should the Commission require providers block or otherwise restrict calls from all other area codes or place heightened due diligence or mitigation obligations on gateway providers receiving calls from such an area code? Is assignment of a valuable numbering resource—an area code—an efficient use of such resource? The Commission seeks comment on the approach taken in Germany, where if a call originating outside of Germany carries a German number, the number must not be displayed to a German end user unless the call is an international mobile roaming call. According to providers, Japan has similar restrictions. Would this or a similar mandated call-labelling approach be appropriate for some or all foreign-originated calls carrying U.S. numbers?

65. Should the Commission only impose restrictions in those cases where the call is not authenticated? For example, France requires that operators block calls with a French number in the caller ID from an operator outside of France unless the operator assigning, depositing, or receiving the number is able to guarantee the authenticity of the caller ID or the call is an international mobile roaming call of a French operator's end user. Under a similar approach, any calls carrying a U.S. NANP number that arrive in the United States with a STIR/SHAKEN authentication would not be automatically blocked. The Commission seeks comment on such an approach.

66. The Commission seeks comment on the effect that any of these restrictions or limitations would have on foreign call centers of U.S. corporations that make foreign-originated calls to U.S. customers. In particular, how do call centers operate when calling into countries that bar the foreign origination of calls into the domestic market carrying domestic caller ID information? The Commission seeks comment on the burden that these restrictions may have on providers and other entities such as call centers as well as the benefit that would result from bright-line restrictions on the use of U.S. NANP numbers for foreign-originated calls.

67. *Indirect Access Restrictions.* The Commission seeks comment on whether it should impose any restrictions on indirect access to U.S. NANP numbers

to prevent their use by foreign or domestic robocallers. In the *Direct Access FNPRM,* the Commission sought comment on steps it could take to ensure that VoIP providers obtaining direct access to numbers did not use those numbers to facilitate illegal robocalls. It also asked whether the Commission should require applicants for direct access to numbers to certify that the numbers they apply for will only be used to provide interconnected VoIP services and whether interconnected VoIP providers that receive direct access to numbers must use those numbers for interconnected VoIP services. Some commenters in that proceeding noted that indirect access is common and that unscrupulous providers may be doing so for nefarious purposes, including illegal robocalling. The Commission notes that some illegal robocallers do not spoof numbers but instead obtain numbers from providers that themselves either obtained the number directly from the North American Numbering Plan Administrator (NANPA) or from another provider.

68. While the Commission does not prejudge the outcome of the *Direct Access FNPRM,* it seeks comment here on a broader bar on indirect access. Should the Commission adopt any restrictions on indirect access to numbers by interconnected VoIP providers and carriers or specifically for use in foreign-originated calls to reduce the ability of robocallers to do so? If so, what should those restrictions be? Should they be modeled after limitations other countries have put in place? The Commission notes that some countries limit the number of times a number can be transferred after it is obtained directly from the numbering administrator or completely bar number sub-assignment (indirect access). Would a similar rule be appropriate here? Does a less restrictive approach make sense? For example, in Portugal, further sub-assignment is permitted, but only if the provider that obtained the initial sub-assignment has allocated 60% of the numbers received to its end users. Instead of or in addition to limiting indirect access, could the Commission hold providers that obtain numbers directly from NANPA strictly liable for illegal robocalling undertaken by any entity that obtains the number through indirect access? Would such an approach be enforceable and, if so, how would the Commission enforce it? Does direct access to numbers by VoIP providers reduce or eliminate the need for numbers to be readily available through indirect access? Should the Commission, on its own or in concert with NANPA, instead establish a system for tracking the number of times that a number has been transferred via indirect access, to whom, and who has the right to use a number at a particular time? The Commission seeks comment on the costs and administrative hurdles of establishing such a system, as well as the benefits and burdens. Could such a tracking system also assist in the enforcement of the Commission's robocall rules generally? For example, like STIR/SHAKEN, it would allow a downstream provider to determine whether the originating party (or at least the upstream provider) was authorized to use a number. How could providers use that information, particularly in concert with STIR/SHAKEN data?

STIR/SHAKEN by Third Parties

69. The Commission seeks comment on whether certain of its rules regarding caller ID authentication and attestation in the Robocall Mitigation Database require clarification. The Commission's rules require that a voice service provider ''[a]uthenticate caller identification information for all SIP calls it originates and . . . transmit that call with authenticated caller identification information to the next voice service provider or intermediate provider in the call path.'' TransNexus asserts that some originating providers have had underlying (in the case of resellers) or downstream providers authenticate calls on the originating provider's behalf. Should the Commission allow a third party to authenticate caller identification information to satisfy the originating provider's obligation? Conversely, should the Commission amend its rules regarding filing in the Robocall Mitigation Database to require attestation of STIR/SHAKEN implementation by the originating provider itself—*i.e.,* require all domestic providers to have their own token from the STI–GA for purposes of authentication? As to both questions, why or why not? Is third-party authentication proper in certain circumstances but improper in others? Is third-party authentication consistent with the standards underlying the STIR/SHAKEN framework? And does authentication by someone other than the originating provider undercut STIR/SHAKEN? The Commission seeks comment on whether the Commission needs to amend its current rules in order to account for this practice, whether to prohibit or allow it.

Differential Treatment of Conversational Traffic

70. The Commission seeks comment on stakeholders' argument that certain traffic is unlikely to carry illegal robocalls and thus should be treated differently under its rules from other voice traffic. Specifically, the Commission seeks comment on whether cellular roaming traffic (*i.e.,* traffic originated abroad from U.S. mobile subscribers carrying U.S. NANP numbers terminated in the U.S.) should be treated with a lighter touch. The Commission does not adopt a rule in the *Gateway Provider Order* regarding this traffic because the record is not sufficiently developed on this point. Are these commenters' concerns valid? Is cellular roaming traffic unlikely to carry illegal robocalls? What percentage of cellular roaming traffic is signed? What percentage of unsigned cellular roaming traffic consists of illegal calls? If the Commission treats cellular roaming differently, could robocallers disguise traffic as cellular roaming traffic in order to take advantage of any ''lighter touch'' regulatory regime the Commission adopts? Is it technically feasible for the gateway provider or downstream providers to clearly identify legitimate cellular roaming traffic for compliance purposes? Several commenters suggest that they are able to do so, but is that true for all domestic providers in the call path and is it realistic for them to do so? For example, ZipDX implies that roaming traffic would need to be placed on separate trunks for it to be practically subject to a different set of rules from other traffic and that segregation currently does not occur in all cases. The Commission seeks comment on this assertion and cellular roaming routing practices in general. Should the Commission modify its rules applicable to some or all domestic providers to take these differences in traffic into account? What, if any, regulatory carve-outs for the Commission's robocalling rules would be appropriate for any traffic that falls within this category? What would be the costs of distinguishing legitimate roaming traffic from illegal robocalls subject to the Commission's robocall protection requirements? Should the Commission treat calls originated from domestic cellular customers carrying U.S. NANP numbers with a similarly light touch? Are there other categories of traffic that should be subject to greater or lesser scrutiny than other voice traffic under the Commission's rules? If so, what are those categories of traffic and what rules should apply?

Legal Authority

71. The Commission proposes to adopt any of the foregoing obligations largely pursuant to the legal authority it relied upon in prior caller ID authentication and call blocking orders, including authority it relied upon in the accompanying *Gateway Provider Order.* The Commission seeks comment on this approach.

72. *Caller ID Authentication.* Gateway providers are a subset of intermediate providers. In the *Gateway Provider Order,* the Commission relies upon 251(e) of the Act and the Truth in Caller ID Act to require gateway providers to authenticate unauthenticated calls. In the *Second Caller ID Authentication Report and Order,* the Commission relied on this authority when requiring intermediate providers to either authenticate unauthenticated calls or cooperate with the industry traceback consortium and respond to traceback requests. The Commission therefore proposes to rely upon the same authority to require all intermediate providers to authenticate unauthenticated calls. The Commission seeks comment on this approach; is there any reason it may not rely on the same authority here? The Commission also seeks comment on whether there are alternative sources of authority it should rely on.

73. *Robocall Mitigation and Call Blocking.* In adopting the Commission's robocall mitigation and call blocking rules for gateway providers in the accompanying *Gateway Provider Order,* the Commission relied upon sections 201(b), 202(a), 251(e); the Truth in Caller ID Act; and its ancillary authority. The Commission proposes to rely on this same authority in adopting additional robocall mitigation and call blocking requirements for all domestic providers, as described above. The Commission seeks comment on this approach and whether there are other sources of authority it should consider.

74. The Commission seeks specific comment on its ancillary authority. The Commission anticipates that the proposed regulations applicable to all domestic providers are ''reasonably ancillary to the Commission's effective performance of its . . . responsibilities.'' Providers not classified as common carriers interconnect with the public switched telephone network and exchange IP traffic, which clearly constitutes ''communication by wire and radio.'' The Commission believes that requiring these providers to comply with its proposed rules is reasonably ancillary to the Commission's effective performance of its statutory responsibilities under sections 201(b), 202(a), 251(e), and the Truth in Caller ID Act as described above. With respect to sections 201(b) and 202(a), absent application of the Commission's proposed rules to providers not classified as common carriers, originators of robocalls could circumvent the Commission's proposed regulatory scheme by sending calls only to providers not classified as common carriers to reach their destination. The Commission seeks comment on this analysis and any other basis of its ancillary authority here.

75. *Enforcement.* The Commission also proposes to adopt its additional enforcement rules above pursuant to sections 501, 502, and 503 of the Act. These provisions allow the Commission to take enforcement action against common carriers as well as providers not classified as common carriers following a citation. The Commission also proposes to rely on the existing authority in § 1.80 of its rules regarding forfeiture amounts. The Commission seeks comment on this proposed authority and any other sources of its enforcement authority.

76. *Numbering Restrictions.* To adopt any of the foregoing numbering restrictions, the Commission proposes to rely on section 251(e) and its grant to the Commission of authority over numbering resources as well as sections 201 and 251(b). The Commission has repeatedly relied on these sections in adopting its numbering rules. The Commission also proposes to rely on its ancillary authority. The Commission believes that placing restrictions on numbering access for providers not classified as common carriers would be reasonably ancillary to the Commissions' performance under these three sections. Access to numbers is necessary to ensure a level playing field and foster competition by eliminating barriers to, and incenting development of, innovative IP services. The Commission thus proposes to conclude that, for these or other reasons, imposing numbering restrictions on providers not classified as common carriers is reasonably ancillary to the Commission's responsibilities to ensure that numbers are made available on an ''equitable'' basis, to advance the number-portability requirements of section 251(b), or to help ensure just and reasonable rates and practices for telecommunications services regulated under section 201. The Commission also seeks comment on other possible bases for the Commission to exercise ancillary authority here.

Digital Equity and Inclusion

77. The Commission, as part of its continuing effort to advance digital equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. The Commission defines the term ''equity'' consistent with Executive Order 13985 as 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. Specifically, the Commission seeks comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

78. Initial Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *FNPRM.* The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in the **DATES** section of the *FNPRM.* The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

79. In order to continue the Commission's work of protecting American consumers from illegal calls, regardless of their provenance, the *FNPRM* proposes to expand some of the Commission's existing rules to cover other providers in the call path and provides additional options to further protect American consumers, regardless of whether illegal calls originate

domestically or abroad. Specifically, the *FNPRM* proposes to extend the Commission's STIR/SHAKEN authentication requirement to cover all domestic providers in the call path. The *FNPRM* also seeks comment on extending some of the robocall mitigation duties the Commission adopts in the *Gateway Provider Order* to all domestic providers in the call path. These mitigation duties include: expanding and modifying the Commission's existing affirmative obligations; requiring downstream providers to block calls from non-gateway providers when those providers fail to comply; the general mitigation standard; and filing a mitigation plan in the Robocall Mitigation Database regardless of STIR/SHAKEN implementation status. The *FNPRM* also seeks comment on additional measures to address illegal robocalls, including: ways to enhance the enforcement of the Commission's rules; clarifying certain aspects of its STIR/SHAKEN regime; placing limitations on the use of U.S. NANP numbers for foreign-originated calls and indirect number access, and treating cellular roaming traffic differently.

Legal Basis

80. The *FNPRM* proposes to find authority largely under those provisions through which it has previously adopted rules to stem the tide of robocalls. Specifically, the *FNPRM* proposes to find authority under sections 201(b), 202(a), 251(b) and (e), 501, 502, and 503 of the Act, § 1.80 of the Commission's rules regarding forfeiture amounts, the Truth in Caller ID Act, and, where appropriate, ancillary authority. The *FNPRM* solicits comment on these proposals.

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

81. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and by the rule revisions on which the *FNPRM* seeks comment, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

82. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

83. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

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

Wireline Carriers

85. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

86. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities

87. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of

December 31, 2020, there were 5,183 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

88. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

89. *Competitive Local Exchange Carriers (Competitive LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers. Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

90. The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small-business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees) and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although it emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

91. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

92. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for small cable system operators, which classifies ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000,'' as small. As of December 2020, there were approximately 45,308,192 basic cable video subscribers in the top Cable multiple system operators (MSOs) in the United States. Accordingly, an operator serving fewer than 453,082 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, all but five of the cable operators in the Top Cable MSOs have less than 453,082 subscribers and can be considered small entities under this size standard. The Commission notes however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

93. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 115 providers that reported they were engaged in the provision of other toll services. Of these providers, the Commission estimates that 113 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

Wireless Carriers

94. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular

services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

95. *Satellite Telecommunications.* This industry comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $35 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than of these providers can be considered small entities.

Resellers

96. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

97. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 495 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

98. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 58 providers that reported they were engaged in the provision of payphone services. Of these providers, the Commission estimates that 57 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

Other Entities

99. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.* dial-up internet service providers (ISPs)) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35

million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

100. The *FNPRM* proposes to impose several obligations on various providers, many of whom may be small entities. Specifically, the *FNPRM* proposes to require all U.S. intermediate providers to authenticate caller ID information consistent with STIR/SHAKEN for SIP calls that are carrying a U.S. number in the caller ID field and to require all providers to comply with the most recent version of the standards as they are released. The *FNPRM* also seeks comment on extending certain mitigation duties to all domestic providers, including: (1) extending the requirement to respond to traceback requests from the Commission, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of the request to all U.S.-based providers in the call path; (2) requiring all domestic providers in the call path to block, rather than simply effectively mitigate, illegal traffic when notified of such traffic by the Commission; and (3) requiring the intermediate provider or terminating provider immediately downstream from an upstream provider that fails to block, or effectively mitigate if the Commission declines to extend the blocking requirement further, illegal traffic when notified by the Commission. It also seeks comment on whether and how to clarify the Commission's rule requiring providers to take affirmative, effective measures to prevent new and renewing customers from using their network to originate illegal calls. The *FNPRM* also proposes to extend a general mitigation standard to voice service providers that have implemented STIR/SHAKEN in the IP portions of their networks and to all domestic intermediate providers. The *FNPRM* also proposes to require all domestic intermediate providers to submit a certification to the Robocall Mitigation Database describing their robocall mitigation practices and stating that they are adhering to those practices, regardless of whether they have fully implemented STIR/SHAKEN.

101. With regard to the Commission's enforcement of these proposed rules, the *FNPRM* proposes to: (1) impose forfeitures for failures to block calls on a per-call basis and establish a maximum forfeiture amount for such violations; (2) impose the highest available forfeiture for failures to appropriately certify in the Robocall Mitigation Database; (3) establish additional bases for removal from the Robocall Mitigation Database, including by establishing a ''red light'' feature to notify the Commission when a newly-filed certification lists a known bad actor as a principal, parent company, subsidiary, or affiliate; and (4) subject repeat offenders to proceedings to revoke their section 214 operating authority and to ban offending companies and/or their individual company owners, directors, officers, and principals from future significant association with entities regulated by the Commission.

102. The *FNPRM* seeks comment on whether certain of the Commission's rules regarding caller ID authentication and attestation in the Robocall Mitigation Database require clarification, specifically whether the Commission should allow a third party to authenticate caller identification information to satisfy the originating provider's obligation, and whether the Commission's rules regarding filing in the Robocall Mitigation Database should be amended to require attestation of STIR/SHAKEN implementation by the originating provider itself. The *FNPRM* also seeks comment on whether additional clarity is needed regarding the Commission's rules about certain providers lacking facilities to implement STIR/SHAKEN.

103. The *FNPRM* also seeks comment on whether the TRACED Act applies to satellite providers, and, if so, whether the Commission should grant such providers an extension for implementing STIR/SHAKEN.

104. The *FNPRM* seeks comment on possible changes to the Commission's numbering rules to prevent the misuse of numbering resources to originate illegal robocalls, particularly those originating abroad, including: (1) whether the Commission should adopt restrictions on the use of domestic numbering resources for calls that originate outside of the United States for termination in the United States; and (2) whether the Commission should impose any restrictions on indirect access to U.S. NANP numbers to prevent their use by foreign or domestic robocallers.

105. Lastly, the *FNPRM* seeks comment on stakeholders' argument that cellular roaming traffic (*i.e.,* traffic originated abroad from U.S. mobile subscribers carrying U.S. NANP numbers terminated in the U.S.) should be treated with a ''lighter touch'' because it is unlikely to carry illegal robocalls.

Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

106. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

107. The *FNPRM* seeks comment on the particular impacts that the proposed rules may have on small entities. In particular, it seeks comment on the impact on small providers of extending the requirement to respond to traceback requests from the Commission, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of the request to all U.S.-based providers in the call path. The *FNPRM* recognizes that providers that do not receive many requests may be less familiar with the process, and that smaller providers in particular may struggle to respond quickly, and it seeks comment on whether the waiver process established in the *Gateway Provider Order* is sufficient to address the needs of all providers, or whether it should be modified to allow greater flexibility. In particular, the *FNPRM* seeks comment on whether the Commission should adopt an approach to traceback based on volume of requests received, rather than position in the call path or size of provider. For example, the *FNPRM* asks whether the Commission should adopt a tiered approach that requires providers with fewer than 10 traceback requests a month to respond ''fully and timely,'' without the need to maintain an average response time of 24 hours; requires providers that receive from 10 to 99 traceback requests a month to respond within 24 hours or request a waiver and maintain an average response time of 24 hours; and requires providers with 100 or more traceback requests a month to always respond within 24 hours, barring exceptional circumstances. The *FNPRM* also seeks comment on whether the TRACED Act applies to satellite providers and, if so, whether the Commission should grant

such providers an extension for implementing STIR/SHAKEN. The *FNPRM* seeks comment on whether a de minimis number of satellite provider subscribers use NANP resources, and whether there should thus be a de minimis exception to the Commission's rules. The *FNPRM* notes that the Commission has previously provided small voice services providers, including satellite providers, an extension from STIR/SHAKEN implementation until June 30, 2023, and seeks comment on whether the Commission should grant an indefinite extension for satellite providers or, in the alternative, a defined continuing extension.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

108. None.

Procedural Matters

109. *Initial Regulatory Flexibility Analysis.* As required by the RFA, the Commission has prepared an IRFA of the possible significant economic impact on small entities of the policies and rules addressed in this *FNPRM.* The IRFA is set forth above. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the *FNPRM* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *FNPRM,* including the IRFA, to the Chief Counsel for Advocacy of the SBA.

110. *Paperwork Reduction Act.* The *FNPRM* contains proposed new and revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

111. *Ex Parte Presentations—Permit-But-Disclose.* The proceeding this *FNPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Ordering Clauses

112. Accordingly, *it is ordered,* pursuant to sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(b), 251(e), 303(r), 501, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 202, 217, 227, 227b, 251(b) 251(e), 303(r), 501, 502, and 503, this *FNPRM is adopted.*

113. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference information Center, *shall send* a copy of this *FNPRM,* including the Initial Regulatory Flexibility Analysis (IRFA), to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 0

Authority delegations (Government agencies), Communications, Communications common carriers, Classified information, Freedom of information, Government publications, Infants and children, Organization and functions (Government agencies), Postal Service, Privacy, Reporting and recordkeeping requirements, Sunshine Act, Telecommunications.

47 CFR Part 1

Administrative practice and Procedure, Civil rights, Claims, Communications, Communications common carriers, Communications equipment, Cuba, Drug abuse, Environmental impact statements, Equal access to justice, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic preservation, Income taxes, Indemnity payments, Individuals with disabilities, internet, Investigations, Lawyers, Metric system, Penalties, Radio, Reporting and recordkeeping requirements, Satellites, Security measures, Telecommunications, Telephone, Television, Wages.

47 CFR Part 64

Carrier equipment, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

The Federal Communications Commission proposes to amend parts 0, 1, and 64 of title 47 of the Code of Federal Regulations as follows:

PART 0—COMMISSION ORGANIZATION

Subpart A—Organization

■ 1. The authority citation for part 0, subpart A, continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 2. Amend § 0.111 by revising paragraph (a)(28) to read as follows:

§ 0.111 Functions of the Bureau.

(a) * * *

(28) Take enforcement action, including de-listing from the Robocall Mitigation Database, against any provider:

(i) Whose certification described in § 64.6305(c) through (e) of this chapter is deficient after giving that provider

notice and an opportunity to cure the deficiency; or

(ii) Who accepts calls directly from a domestic voice service provider, domestic intermediate provider, gateway provider, or foreign provider not listed in the Robocall Mitigation Database in violation of § 64.6305(f) of this chapter.

* * * * *

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

Subpart A—General Rules of Practice and Procedure

■ 4. Amend § 1.80 by:
■ a. Redesignating paragraphs (b)(9) through (11) as paragraphs (b)(10) through (12);
■ b. Adding a new paragraph (b)(9);
■ c. In newly redesignated paragraph (b)(10), removing ''paragraphs (b)(1) through (8) of this section'' and adding ''paragraphs (b)(1) through (9) of this section'' in its place;
■ d. In newly redesignated paragraph (b)(11):
■ i. Redesignating tables 1 through 4 to paragraph (b)(10) as tables 1 through 4 to paragraph (b)(11);
■ ii. In footnote 1 of newly redesignated table 4 to paragraph (b)(11), removing ''paragraph (b)(10)'' and adding ''paragraph (b)(11)'' in its place;
■ iii. Redesignating note 2 to paragraph (b)(10) as note 2 to paragraph (b)(11); and
■ iv. In newly redesignated note 2 to paragraph (b)(11), removing ''this paragraph (b)(10)'' everywhere it appears and adding ''this paragraph (b)(11)'' in its place and removing ''paragraph (b)(11)'' and adding ''paragraph (b)(12)'' in its place; and
■ e. In newly redesignated paragraph (b)(12), redesignating table 5 to paragraph (b)(11)(ii) as table 5 to paragraph (b)(12)(ii) and note 3 to paragraph (b)(11) as note 3 to paragraph (b)(12).

The addition reads as follows:

§ 1.80 Forfeiture proceedings.

* * * * *

(b) * * *

(9) *Forfeiture penalty for a failure to block.* Any person determined to have failed to block illegal robocalls pursuant to § 64.6305(e) of this chapter shall be liable to the United States for a forfeiture penalty of no more than $22,021 for each violation, to be assessed on a per-call basis. In addition to the mitigating and aggravating factors set forth in table 1 to paragraph (b)(11) of this section, other factors to be considered in calculating a forfeiture amount under this paragraph shall include whether the violation includes failure to block calls to emergency services providers or public safety answering points or to numbers on a reasonable do-not-originate list.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 5. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

Subpart HH—Caller ID Authentication

■ 6. Amend § 64.6302 by revising paragraph (b) to read as follows:

§ 64.6302 Caller ID authentication by intermediate providers.

* * * * *

(b) Authenticate caller identification information for all calls it receives that use North American Numbering Plan resources that pertain to the United States in the caller ID field and for which the caller identification information has not been authenticated and which it will exchange with another provider as a SIP call.

■ 7. Amend § 64.6304 by revising paragraph (b) to read as follows:

§ 64.6304 Extension of implementation deadline.

* * * * *

(b) *Voice service providers and intermediate providers that cannot obtain an SPC token.* Voice service providers that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6301 until they are capable of obtaining a SPC token. Intermediate providers, including gateway providers, that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6302(b) regarding call authentication.

* * * * *

■ 8. Amend § 64.6305 by:
■ a. Revising the heading of paragraph (a) and paragraphs (a)(1) and (c)(2) introductory text;
■ b. Redesignating paragraphs (c)(4)(iv) and (v) as paragraphs (c)(4)(v) and (vi);
■ c. Adding a new paragraph (c)(4)(iv);
■ d. Redesignating paragraphs (d)(4)(iv) and (v) as paragraphs (d)(4)(v) and (vi);
■ e. Adding a new paragraph (d)(4)(iv);
■ f. Redesignating paragraph (e) as paragraph (f);
■ g. Adding a new paragraph (e); and
■ h. Revising newly redesignated paragraph (f).

The revisions and additions read as follows:

§ 64.6305 Robocall mitigation and certification.

(a) *Robocall mitigation program requirements for voice service providers and intermediate providers (other than gateway providers).* (1) Except those subject to an extension granted under § 64.6304(b), any voice service provider and intermediate provider, not including gateway providers, shall implement an appropriate robocall mitigation program with respect to calls that use North American Numbering Plan resources that pertain to the United States in the caller ID field.

* * * * *

(c) * * *

(2) A voice service provider shall include a robocall mitigation program consistent with paragraph (a) of this section and shall include the following information in its certification in English or with a certified English translation:

* * * * *

(4) * * *

(iv) All known principals, affiliates, subsidiaries, and parent companies of the intermediate provider;

* * * * *

(d) * * *

(4) * * *

(iv) All known principals, affiliates, subsidiaries, and parent companies of the intermediate provider;

* * * * *

(e) *Certification by intermediate providers (other than gateway providers) in the Robocall Mitigation Database.* (1) An intermediate provider shall certify to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it carries or processes are compliant with § 64.6302(b);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it carries or processes on that portion of its network are compliant with § 64.6302(b); or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network for carrying or processing calls.

(2) An intermediate provider shall include the following information in its

certification, in English or with a certified English translation:

(i) The specific reasonable steps the intermediate provider has taken to avoid carrying or processing illegal robocall traffic as part of its robocall mitigation program, including a description of how it has complied with the know-your-upstream provider requirement in § 64.1200(n)(4).

(ii) A statement of the intermediate provider's commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

(3) All certifications made pursuant to paragraph (e)(1) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) An intermediate provider filing a certification shall submit the following information in the appropriate portal on the Commission's website:

(i) The intermediate provider's business name(s) and primary address;

(ii) Other business names in use by the intermediate provider;

(iii) All business names previously used by the intermediate provider;

(iv) All known principals, affiliates, subsidiaries, and parent companies of the intermediate provider;

(v) Whether the intermediate provider or any affiliate is also a foreign voice service provider; and

(vi) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues.

(5) An intermediate provider shall update its filings within 10 business days of any change to the information it must provide pursuant to paragraphs (e)(1) through (4) of this section, subject to the conditions set forth in paragraphs (c)(5)(i) and (ii) of this section.

(f) *Intermediate provider and voice service provider obligations*—(1) *Accepting traffic from domestic voice service providers.* Intermediate providers and voice service providers shall accept calls directly from a domestic voice service provider only if that provider's filing appears in the Robocall Mitigation Database in accordance with paragraphs (c) of this section and that filing has not been de-listed pursuant to an enforcement action.

(2) *Accepting traffic from foreign providers.* Beginning 90 days after the deadline for filing certifications pursuant to paragraph (d)(1) of this section, intermediate providers and voice service providers shall accept calls directly from a foreign voice service provider or foreign intermediate provider that uses North American Numbering Plan resources that pertain to the United States in the caller ID field to send voice traffic to residential or business subscribers in the United States, only if that foreign provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (c) of this section and that filing has not been de-listed pursuant to an enforcement action.

(3) *Accepting traffic from domestic intermediate providers.* Intermediate providers and voice service providers shall accept calls directly from:

(i) A gateway provider, only if that provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (d) of this section, showing that the gateway provider has affirmatively submitted the filing, and that the filing has not been de-listed pursuant to an enforcement action.

(ii) Beginning 90 days after the deadline for filing certifications pursuant to paragraph (e) of this section, a domestic intermediate provider, only if that provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (e) of this section, showing that the intermediate provider has affirmatively submitted the filing, and that the filing has not been de-listed pursuant to an enforcement action.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 220712–0154]

RIN 0648–BL19

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Amendment 32

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement management measures described in Amendment 32 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and Atlantic Region (CMP FMP), as prepared and submitted by the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council (Councils). This proposed rule and Amendment 32 would revise the Gulf of Mexico (Gulf) migratory group of cobia (Gulf group cobia) catch limits, possession limit and minimum size limits, establish a Gulf group cobia commercial trip limit and recreational vessel limit, and revise the CMP FMP framework procedures. The proposed rule would also clarify the Gulf group cobia sale and purchase restrictions. The purpose of this proposed rule and Amendment 32 is to end overfishing of Gulf group cobia, update catch limits to be consistent with the best scientific information available, and revise management measures to help constrain landings to the catch limits.

DATES: Written comments must be received on or before August 17, 2022.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2022–0030,'' by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2022–0030'', in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 32, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/*

amendment-32-management-gulf-migratory-group-cobia.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, telephone: 727–824–5305, or email: *Kelli.ODonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: Gulf group cobia is managed under the CMP FMP in Federal waters from the Georgia/Florida border in the Atlantic to the Texas/Mexico border in the Gulf. The CMP FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights in this proposed rule are in round and eviscerated weight combined, unless otherwise specified.

Background

Under the CMP FMP, the Councils jointly manage fishing for Gulf group cobia in Federal waters from Texas to the Florida/Georgia boundary. The Gulf group cobia acceptable biological catch (ABC) is apportioned between the Gulf zone, which spans from the Councils' jurisdictional boundary west of the Dry Tortugas, Florida, to the Texas/Mexico border, and the Florida east coast (FLEC) zone, which spans from the Florida/Georgia border to the Councils' jurisdictional boundary west of the Dry Tortugas, Florida. Under the current framework procedures in the CMP FMP, the Gulf of Mexico Fishery Management Council (Gulf Council) is responsible for specifying management measures for Gulf group cobia, except that the South Atlantic Fishery Management Council (South Atlantic Council) is responsible for specifying trip limits, closed seasons or areas, and gear restrictions in the FLEC zone.

The current overfishing limit (OFL) and acceptable biological catch are 2,660,000 lb (1,206,556 kg) and 2,600,000 lb (1,179,340 kg), respectively. The current stock annual catch limit (ACL) is equal to the ABC. These catch limits were established in 2015 in Amendment 20B to the CMP FMP (80 FR 4216; January 27, 2015), and are based on the recommendations of the Councils' Scientific and Statistical Committees (SSCs) from the Southeast Data Assessment and Review (SEDAR) 28 stock assessment. The recreational landings estimates used in SEDAR 28 were generated using the Marine Recreational Information Program's (MRIP) Coastal Household Telephone Survey (CHTS).

In Amendment 20B, the Councils apportioned the Gulf group cobia stock ABC between the Gulf zone (64 percent) and FLEC zone (36 percent), based on average landings from 1998–2012 across both zones, with the ACL for each zone being set equal to the apportioned ABC. Recreational landings estimates during 1998–2012 were generated using MRIP–CHTS. In 2018, MRIP replaced the fishing effort estimates from the CHTS with those from the Fishing Effort Survey (FES). Total recreational fishing effort estimates generated from MRIP–FES are generally higher than MRIP–CHTS estimates, and those higher effort estimates necessarily increase the recreational landings estimates. This difference in the estimates is because MRIP–FES is designed to more accurately measure fishing activity. Had MRIP–FES data been available when the current Gulf grouper cobia OFL and ABC were established, the OFL would have been 4,870,000 lb (2,208,995 kg) and the ABC would have been 4,500,000 (2,041,166 kg).

In 2020, the SEDAR 28 Update indicated that Gulf group cobia was undergoing overfishing with the biomass at reduced levels, which puts the stock at risk of becoming overfished. The SEDAR 28 Update included updated recreational landings estimates based on MRIP FES. In July 2020, the Councils' SSCs reviewed the SEDAR 28 Update and recommended new OFLs and ABCs that would end overfishing of Gulf group cobia and allow harvest to increase over time. The SSCs' recommendation for OFL is 3,210,000 lb (1,456,032 kg) for 2022, and 3,310,000 lb (1,501,391 kg) for 2023 and subsequent years. The SSCs' recommendation for ABC is 2,600,000 lb (1,179,340 kg) for 2022, and 2,760,000 lb (1,251,915 kg) for 2023 and subsequent years. These recommendations represent a reduction in the allowable harvest when compared to the current OFL and ABC, as noted above.

The Gulf Council manages Gulf group cobia in the Gulf zone without sector allocations. The South Atlantic Council manages Gulf group cobia in the FLEC zone with sector allocations, allocating 8 percent of the ACL to the commercial sector and 92 percent of the ACL to the recreational sector. This allocation was originally established in 2012 in Amendment 18 to the CMP FMP, when two migratory groups of cobia were managed under the CMP FMP: Gulf group cobia and Atlantic migratory group cobia (Atlantic group cobia) (76 FR 82058; December 29, 2011). The allocation was based on a formula that balanced historical catches (2000–2008) with more recent landings (2006–2008). The boundary between these two migratory groups was set at the Councils' jurisdictional boundary west of the Dry Tortugas. However, the SEDAR 28 (2013) assessment determined that the biological boundary between the Gulf and Atlantic migratory groups of cobia was the Florida/Georgia border. To account for this change, in Amendment 20B the Councils created the Gulf zone and the FLEC zone, allocating a portion of the Gulf group cobia ABC to each zone. In that Amendment, the Councils also chose to keep the same sector allocations for the FLEC zone that were established for Atlantic group cobia in Amendment 18 to the CMP FMP. Subsequently, the Councils removed Atlantic group cobia from the CMP FMP in 2018 through Amendment 31, and it is now managed by the Atlantic States Marine Fisheries Commission (84 FR 4733; February 19, 2019).

In Amendment 18, the Councils established ACTs for both Gulf group cobia and the recreational harvest of Atlantic group cobia. The Councils kept the same formulas for establishing these ACTs in Amendment 20B when the Gulf group cobia ABC was split between the Gulf zone and the FLEC zone. The current stock ACT in the Gulf zone is 10 percent below the Gulf zone ACL. The ACT was selected to provide a buffer to the ACL, but result in a catch level that was no less than historic total catch from 2000–2009. The current recreational ACT in the FLEC zone is 17 percent below the FLEC zone ACL and was calculated using the following formula: the ACL multiplied by 1 minus the proportional standard error (PSE) of the recreational landings estimates, or 0.5, whichever was greater.

The Councils established the current commercial and recreational possession limit for Gulf group cobia of two fish per person per day through Amendment 5 to the CMP FMP (55 FR 29370; July 19, 1990). This possession limit was extended to the FLEC zone when the Gulf group cobia boundary was changed. There currently is no commercial or recreational trip limit for Gulf group cobia in either zone.

The Councils first established a minimum size limit for cobia of 33 inches (83.8 cm), fork length, in the original CMP FMP (48 FR 5270; February 4, 1983) and that minimum size limit applied to both the Gulf zone and the FLEC zone when they were created in Amendment 20B. In 2020, the Gulf Council revised the Gulf group cobia minimum size limit in the Gulf zone to 36 inches (91.4 cm) fork length, through Framework Amendment 7 to the CMP FMP (85 FR 10328; February 24, 2020). The Gulf Council took this action based on concerns from constituents that an observed decrease

in cobia landings may indicate an unknown issue with the stock. The Gulf Council decided to take a precautionary approach by increasing the commercial and recreational minimum size limits while the SEDAR 28 Update assessment (2020) was completed. The South Atlantic Council did not change the minimum size limit in the FLEC zone, deciding to review the SEDAR 28 Update assessment before making any further management changes.

Management Measures Contained in This Proposed Rule

For Gulf group cobia, this proposed rule would revise the stock and sector ACLs, the Gulf zone stock ACT (quota), the FLEC zone recreational ACT, and the possession limit and minimum size limits, and establish a commercial trip limit and a recreational vessel limits. This proposed rule would also clarify the CMP sale and purchase provisions for federally permitted dealers.

ACLs

The current stock ACL for Gulf group cobia is equal to the ABC of 2,600,000 lb (1,179,340 kg) and is based on the results of SEDAR 28, which used data from MRIP–CHTS. Amendment 32 would retain the stock ACL for Gulf group cobia of 2,600,000 lb (1,179,340 kg) for 2022, and increase the stock ACL to 2,760,000 lb (1,251,915 kg) for 2023 and subsequent years, which is also equal to the ABCs recommended by the Councils' SSCs. The SSCs' recommendations and the Councils' determinations are based on the results of the SEDAR 28 Update, which used data from MRIP–FES. Thus, the proposed ACLs using MRIP–FES data actually represent a decrease in the allowable harvest of Gulf group cobia, as discussed above. For example, had the current stock ACL been derived using MRIP–FES data, the current stock ACL would have been 4,500,000 lb (2,041,166 kg).

The current zone apportionment of the ABC (equal to the stock ACL) is 64 percent to the Gulf zone and 36 percent to the FLEC zone, which results in a Gulf zone ACL of 1,660,000 lb (752,963 kg) and a FLEC zone ACL of 930,000 lb (421,841 kg). Amendment 32 and the proposed rule would revise the zone apportionment to 63 percent to the Gulf zone and 37 percent to the FLEC zone. This would result in a Gulf zone ACL of 1,638,000 lb (742,984 kg) for 2022, and 1,738,000 lb (788,343 kg) for 2023 and subsequent years. The proposed FLEC zone ACL would be 962,000 lb (436,356 kg) for 2022, and 1,021,200 lb (463,209 kg) for 2023 and subsequent years.

Amendment 32 would maintain the current commercial and recreational allocation in the FLEC zone as 8 percent and 92 percent, respectively. The current ACLs for Gulf group cobia in the FLEC zone are 70,000 lb (31,751 kg) for the commercial sector (expressed as a commercial quota), and 860,000 lb (390,089 kg) for the recreational sector. The proposed commercial ACLs (quotas) are 76,960 lb (34,908 kg) for 2022, and 81,696 lb (37,057 kg) for 2023 and subsequent years. The proposed recreational ACLs are 885,040 lb (401,447 kg) for 2022, and 939,504 lb (426,152 kg) for 2023 and subsequent years.

ACTs

Amendment 32 and this proposed rule would update the calculation for determining the ACTs using the Gulf Council's ACL/ACT Control Rule. Under this control rule, the calculated ACTs for the Gulf zone and for the recreational sector in the FLEC zone would be 10 percent less than the respective zone ACLs. To calculate the ACT, the control rule uses the PSEs for 4 years of landings data (2016–2019), the number of times the catch limit has been exceeded, the precision of recreational landings based on the PSE, the precision of commercial landings, inseason accountability measures in place, and the stock status.

The current stock ACT (quota) for Gulf group cobia in the Gulf zone is 1,500,000 lb (680,389 kg). Consistent with the Gulf Council's ACL/ACT Control Rule, this proposed rule would revise the stock ACT in the Gulf zone to be 1,474,200 lb (668,686 kg) for 2022, and 1,564,920 lb (709,836 kg) for 2023 and subsequent years.

The current recreational ACT for Gulf group cobia in the FLEC zone is 710,000 lb (322,051 kg). Consistent with Gulf Council's ACL/ACT Control Rule, this proposed rule would revise the recreational ACT in the FLEC zone to be 796,536 lb (361,303 kg) for 2022, and 845,554 lb (383,537 kg) for 2023 and subsequent years.

There is no commercial ACT for Gulf group cobia in the FLEC zone and the Councils did not establish a commercial ACT in Amendment 32. The Councils determined that a commercial ACT was not necessary because the commercial sector had not exceeded its ACL in the past and the projections in Amendment 32 indicated that commercial harvest would not exceed the proposed ACLs.

Possession Limit, Commercial Trip Limit, and Recreational Vessel Limit

The current possession limit for Gulf group cobia of two fish per person per day applies to commercial and recreational harvest in both zones. This possession limit is codified at 50 CFR 622.383(b), which addresses limited harvest species. In Amendment 32, the Councils decided to reduce the Gulf group cobia possession limit to one fish per person. The Councils also decided to establish a commercial trip limit of two fish and a recreational vessel limit of two fish per trip.

This proposed rule would implement these changes by establishing a recreational bag limit in 50 CFR 622.382(a) and a commercial trip limit in 50 CFR 622.385(c), and removing the regulations at 50 CFR 622.383. The recreational bag limit for Gulf group cobia would be one fish per person per day, not to exceed 2 fish per vessel per trip. The commercial trip limit for Gulf group cobia per day would be one fish per person and 2 fish per vessel, not to exceed 2 fish per vessel per trip. The commercial trip limit, and the recreational bag and vessel limits would apply to harvest from both the Gulf zone and FLEC zone.

Analysis in Amendment 32 indicates that the majority of the commercial and recreational trips already harvest one or less cobia per person and per trip. Therefore, reducing the possession limit from 2 fish to 1 fish per person and creating a commercial trip limit and recreational vessel limit would only reduce harvest in the Gulf zone by about 1.0 percent for the commercial sector and 10 percent for the recreational sector. The harvest reduction in the FLEC zone would be greater, with an approximate 23 percent for the commercial sector and 29 percent for the recreational sector. However, the Councils decided that these changes were appropriate because they would result in some reduction in fishing mortality and would also aid with compliance and enforcement because the harvest limits in Federal waters would be consistent with those established by the state of Florida for harvest of cobia in Gulf state waters, which is one fish per person or two per vessel, whichever is less. The possession and trip limits in Florida state waters adjacent to the FLEC zone are currently one per person or six fish per vessel, whichever is less, but effective July, 1, 2022, these state regulations will change and will be consistent with the changes proposed in this rule. See *https://content.govdelivery.com/accounts/FLFFWCC/bulletins/316530e.*

The analysis in Amendment 32 indicates that commercial landings will not exceed the proposed commercial harvest limits in the FLEC zone, and

that the combined commercial and recreational harvest would not exceed the proposed 2022 and 2023 total ACLs in the Gulf zone, regardless of the proposed commercial trip limits. This analysis also indicates that even with the proposed changes to the possession limit, recreational harvest in the FLEC zone is projected to exceed the proposed FLEC zone 2022 and 2023 recreational ACLs, and when combined with expected commercial harvest, the total harvest in the FLEC zone is projected to exceed the total 2022 and 2023 FLEC zone ACLs. However, as discussed below, these proposed changes in combination with the proposed change to the minimum size limit is projected to reduce recreational landings enough to constrain harvest to the recreational ACL. As previously noted, NMFS expects the reduction in the possession limit and creation of a recreational vessel limit to reduce recreational harvest in the FLEC zone by approximately 29 percent.

Minimum Size Limits

This proposed rule would increase the commercial and recreational minimum size limits for Gulf group cobia in the FLEC zone from 33 inches (83.8 cm) to 36 inches (91.4 cm), fork length. The current Gulf zone commercial and recreational minimum size limit is 36 inches (91.4 cm), fork length, and the Councils determined that having a consistent minimum size limit in both the FLEC and Gulf zones would reduce confusion about the regulations in Federal waters and decrease the burden on law enforcement, while also providing benefits to the stock.

Increasing the minimum size limit to 36 inches (91.4 cm), fork length, in the FLEC zone would reduce the harvest rate across both sectors and reduce the total harvest. The increase in the minimum size limit would also increase the likelihood that sexually mature cobia are able to spawn more than once before being harvested, resulting in additional recruitment to the spawning stock over time. As a result of this change to the minimum size limit, NMFS projects that harvest in the FLEC zone would be reduced by approximately 27 percent for the commercial sector, 23 percent for the recreational charter vessel/headboat component, and 34 percent for the recreational private angling component. An increase in the minimum size limit may increase regulatory discards in the FLEC zone in the near-term but the discard mortality rates were estimated in SEDAR 28 to be relatively low (5 percent) when using hook-and-line gear in the commercial sector and all gear types in the recreational sector. The analysis in Amendment 32 indicates that implementing both this increase in the minimum size limit and the changes to the possession limit would reduce landings in the FLEC zone enough to constrain landings to the recreational ACL.

Permitted Dealer Sale and Purchase

This proposed rule would also clarify the sale and purchase regulations at 50 CFR 622.386(b) and (c). The Councils and NMFS do not require a specific Federal permit for the commercial harvest of Gulf group cobia. However, because this stock is included in the CMP FMP, the regulations at 50 CFR 622.386(b) and (c) restrict the sale and purchase of Gulf group cobia by federally permitted vessels and seafood dealers. The regulation at 50 CFR 622.386(b) requires that Gulf group cobia harvested on any vessel that has a valid Federal vessel permit (*i.e.,* commercial or charter vessel/headboat permit for any Federal fishery) be sold to a seafood dealer who has a valid Federal Gulf and South Atlantic dealer permit. Under 50 CFR 622.386(c), that same Federal dealer may purchase Gulf group cobia harvested in or from Gulf or South Atlantic Federal waters only from a vessel that has been issued a Federal CMP permit (*i.e.,* commercial or charter vessel/headboat permit for king or Spanish mackerel). The dealer limitation in 50 CFR 622.386(c) is inconsistent with the requirement in 50 CFR 622.386(b) for Gulf group cobia on all federally permitted vessels to be sold to a federally permitted dealer, as well as with the Gulf and South Atlantic Council's Generic Amendment that created the Federal Gulf and South Atlantic dealer permit (79 FR 19490; April 9, 2014). Therefore, this proposed rule would correct the regulations in 50 CFR 622.386(c) to make the purchase restriction that is tied to having a Federal permit applicable only to king and Spanish mackerel species rather than to all CMP species generally. This correction would allow federally permitted dealers to accept Gulf group cobia harvested from the Exclusive Economic Zone (EEZ) from any vessel, regardless of the permit status of the vessel.

Management Measures in Amendment 32 Not Codified Through This Proposed Rule

OFL and ABC

As previously explained, the current OFL and ABC for Gulf group cobia of 2,660,000 lb (1,206,556 kg) and 2,600,000 lb (1,179,340 kg), are based on the Councils' SSCs' recommendations from SEDAR 28, which used recreational landings estimates from MRIP–CHTS. Amendment 32 would adopt the new increasing OFLs and ABCs based on the SSCs' recommendations from the results of the SEDAR 28 Update, which used MRIP–FES recreational landings estimates. The new OFLs would be 3,210,000 lb (1,456,032 kg) for 2022, and 3,310,000 lb (1,501,391 kg) for 2023 and subsequent years. The new ABCs would be 2,600,000 lb (1,179,340 kg) for 2022, and 2,760,000 lb (1,251,915 kg) for 2023 and subsequent years.

ABC Apportionment

The current ABC apportionment for Gulf group cobia is 64 percent for the Gulf zone and 36 percent for the FLEC zone, respectively. Amendment 32 would revise the Gulf group cobia ABC apportionment between the Gulf and FLEC zones by using the average landings from 1998–2012 across both zones using MRIP–FES landings for this time series. This results in a new apportionment of the Gulf group cobia stock ABC of 63 percent for the Gulf zone and 37 percent for the FLEC zone. Using the same time series to calculate the apportionment, but updating it by using MRIP–FES, addresses the higher recreational landings that have occurred in the FLEC zone compared to the Gulf zone.

Sector Allocations

Currently, Gulf group cobia in the Gulf zone is managed as a stock without separate ACLs for each sector, and the Councils did not reconsider this management approach in Amendment 32. The commercial and recreational allocation in the FLEC zone is 8 percent and 92 percent, respectively. Amendment 32 would maintain stock management in the Gulf zone and maintain the current commercial and recreational allocation in the FLEC zone. The current FLEC zone allocation would be applied to the proposed FLEC zone ACLs. The Councils wanted to recognize the harvest needs of the commercial sector in the FLEC zone by not decreasing the *status quo* catch limit of 70,000 lb (31,751 kg).

FMP Framework Procedure

Currently, the framework procedure limits the management measures that the South Atlantic Council may independently propose for Gulf group cobia in the FLEC zone to vessel trip limits, closed seasons or areas, or fishing gear restrictions.

Amendment 32 would revise the framework procedures to allow the South Atlantic Council to independently change vessel trip limits, closed seasons or areas, fishing gear restrictions, per person bag and possession limits, size limits, in-season and post-season accountability measures, and specification of ACTs or sector ACTs for Gulf group cobia in the FLEC zone. The Councils decided that providing the South Atlantic Council the authority to make any of these changes through a framework process will allow the South Atlantic Council to respond quickly to new information. The Councils determined this change would result in beneficial biological, socio-economic, and administrative impacts.

Amendment 32 would also clarify language in the CMP FMP framework procedure by removing reference to Atlantic group cobia, which was removed from management by the Councils through Amendment 31 to the CMP FMP (84 FR 4733; February 19, 2019), and change the language referring to the ABC/ACL Control Rule because there is no ABC/ACL Control Rule. Instead, this language should refer to the ABC and ACL/ACT Control Rules.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 32, the CMP FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council [or NMFS] (see **ADDRESSES**).

This proposed rule, if implemented, would apply to all commercial vessels, charter vessels and headboats (for-hire vessels), and recreational anglers that fish for or harvest cobia in either the FLEC zone or Gulf zone. Because no Federal permit is required for the commercial harvest or sale of Gulf cobia, the distinction between commercial and recreational fishing activity for the purposes of this proposed rule is whether the fish are sold. Individuals that harvest Gulf cobia under the recreational bag limit in Federal waters and who do not subsequently sell these fish are considered to be recreational anglers. Recreational anglers are not considered small entities under the RFA, so they are outside the scope of this analysis (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601(6) and 601(3)–(5)). Recreational anglers are not businesses, organizations, or governmental jurisdictions. A component of this proposed rule would also apply to Federally-permitted dealers that purchase Gulf cobia.

For-hire vessels sell fishing services to recreational anglers. The proposed changes to the CMP FMP would not directly alter the services sold by these for-hire vessels. Any change in anglers' demand for these fishing services (and associated economic effects) as a result of this proposed rule would be secondary to any direct effect on anglers and, therefore, would be an indirect effect of this proposed rule. Indirect effects fall outside the scope of the RFA; however, because for-hire captains and crew are allowed to harvest and sell Gulf cobia under the possession limit when the commercial season is open, for-hire businesses, or employees thereof, could be directly affected by this proposed rule as well.

In summary, businesses that engage in commercial fishing (*i.e.* those that sell their harvests of Gulf cobia, including some for-hire businesses), as well as seafood dealers that purchase Gulf cobia, are the only small entities that would be directly affected by the proposed rule, and therefore only the impacts on these small entities will be discussed.

Although no Federal permit is required for the commercial harvest and sale of Gulf cobia, vessels with other Federal commercial permits are required to report their catches for all species harvested, including Gulf cobia. On average from 2015 through 2019, there were 261 federally-permitted commercial vessels with reported landings of cobia in the Gulf zone. Their average annual vessel-level gross revenue from all species for 2015 through 2019 was approximately $195,000 (2019 dollars) and cobia harvested from the Gulf zone accounted for less than one percent of this revenue. During the same time period, 248 federally-permitted commercial vessels reported landings of cobia in the FLEC zone. Their average annual vessel-level revenue from all species for 2015 through 2019 was approximately $46,000 (2019 dollars) and cobia harvested from the FLEC zone accounted for approximately one percent of this revenue. The maximum annual revenue from all species reported by a single one of the vessels that harvested Gulf cobia from 2015 through 2019 was approximately $2.27 million (2019 dollars).

For anglers to fish for or possess CMP species in or from the Gulf EEZ on for-hire vessels, those vessels are required to have a Federal limited access Gulf Charter Vessel/Headboat for Coastal Migratory Pelagics permit (Gulf CMP for-hire permit). On September 3, 2021, there were 1,301 valid (non-expired) or renewable Gulf CMP for-hire permits and 4 valid or renewable Gulf CMP historical captain for-hire permits. For anglers to fish for or possess CMP species in or from the Mid-Atlantic or South Atlantic EEZ on for-hire vessels, those vessels are required to have a Federal open access South Atlantic Charter Vessel/Headboat for Coastal Migratory Pelagics permit (SA CMP for-hire permit). On September 3, 2021, there were 1,825 valid SA CMP for-hire permits. Although the for-hire permit application collects information on the primary method of operation, the permit does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. However, only federally-permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fisheries Science Center that the vessel primarily operates as a headboat. As of March 9, 2021, 69 Gulf headboats were registered in the SRHS. There were 39 Atlantic headboats registered in the SRHS that may operate in the FLEC zone, as well. As a result, of the 1,305 vessels with Gulf CMP for-hire permits (including historical captain permits), up to 69 may primarily operate as headboats and the remainder as charter vessels. Of the 1,825 vessels with SA CMP for-hire permits, up to 39 may primarily operate as headboats.

The average charter vessel operating in the Gulf is estimated to receive approximately $90,000 (2019 dollars) in gross revenue and $27,000 in net income (gross revenue minus variable and fixed costs) annually. The average Gulf headboat is estimated to receive approximately $272,000 (2019 dollars) in gross revenue and $79,000 in net

income annually. The average charter vessel operating in the South Atlantic is estimated to receive approximately $125,000 (2019 dollars) in annual gross revenue. The average South Atlantic headboat is expected to receive approximately $222,000 (2019 dollars) in annual gross revenue. Estimates of annual net income for South Atlantic charter vessels and headboats are not available.

As of July 12, 2021, there were 373 entities with a Federal Gulf and South Atlantic Dealer permit. The number of these seafood dealers that would be directly affected by this proposed rule is unknown; therefore, this number may be considered an upper bound estimate.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard.

The Small Business Administration (SBA) has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210) and seafood dealers/wholesalers (NAICS code 424460). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $8 million for all its affiliated operations worldwide. All of the for-hire vessels directly regulated by this proposed rule are believed to be small entities based on the SBA size criteria. A business that primarily operates as a seafood dealer/wholesaler is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 100 employees for all its affiliated operations worldwide. Employment data for the dealers directly regulated by this proposed rule are not available; however, NMFS conservatively assumes a substantial number of these dealers are small entities based on the SBA size criteria.

No other small entities that would be directly affected by this proposed rule have been identified.

This proposed rule would modify the Gulf cobia stock ACL based on the recommendations of the Councils' SSCs, as presented in July 2020. The stock ACL would be set equal to the stock ABC or 2,600,000 lb (1,179,340 kg) in 2022 and then increase to 2,760,000 lb (1,251,915 kg) in 2023 and thereafter. These proposed ACLs are not directly comparable to the status quo ACL of 2,600,000 lb (1,179,340 kg), because the status quo ACL is based on MRIP–CHTS data for the recreational sector; whereas, the proposed ACLs are based on newer MRIP–FES data. When converted to an MRIP–FES equivalent value, however, the status quo ACL is estimated to be approximately 4,500,000 lb (2,041,166). Although this proposed rule is expected to result in a 42 percent to 39 percent reduction in the stock ACL relative to the MRIP–FES equivalent status quo ACL, these differences do not represent differences between status quo harvest opportunities and expected future harvests. That is because the stock ACL is sub-divided into zone and sector specific ACLs, and those sub-ACLs dictate fishing opportunities. Also, based on historical landings information, the stock ACL has been underutilized in the past, and therefore, a reduction in the ACL may not impact harvests in the short term. Additionally, because the Gulf zone ACL is shared by the commercial and recreational sectors, and given the change from MRIP–CHTS to MRIP–FES, the portion of the Gulf zone ACL that would be harvested by each sector is unclear. Therefore, economic effects that would result from these proposed ACL changes cannot be quantified.

This proposed rule would also modify the Gulf cobia stock ACL apportionment to be 63 percent for the Gulf zone and 37 percent for the FLEC zone, based on the MRIP–FES average landings for Gulf cobia for the years 1998 through 2012, and use this apportionment to update the zone ACLs based on the Gulf cobia stock ACL described above. This would translate into an ACL for the Gulf zone of 1,638,000 lb (742,984 kg) in 2022 and 1,738,800 lb (788,706 kg) in 2023 and subsequent years. For the FLEC zone, the ACL would be 962,000 lb (436,356 kg) in 2022 and 1,021,200 lb (463,209 kg) in 2023 and subsequent years. These proposed changes to the stock ACL apportionment would result in a benefit transfer from the Gulf zone to the FLEC zone, by allocating one percent more of the Gulf cobia stock ACL to the FLEC zone as compared to the status quo allocation. Because the new zone ACLs are not directly comparable to the status quo zone ACLs, due to the change from MRIP–CHTS to MRIP–FES, and because there is a single stock ACL for the Gulf zone, with no sector sub-ACLs, the economic effects of this reallocation to the commercial sector and the for-hire component of the recreational sector cannot be quantified.

Additionally, this proposed rule would retain the FLEC zone cobia ACL sector allocation of 8 percent to the commercial sector and 92 percent to the recreational sector and update the sector ACLs accordingly. This would result in a FLEC zone commercial ACL of 76,960 lb (34,908 kg) in 2022 and 81,696 lb (37,057 kg) in 2023 and subsequent years. Relative to the status quo FLEC zone commercial ACL of 70,000 lb (31,751 kg), this would be an increase of 6,960 lb (3,157 kg) in 2022 and 11,696 lb (5,305 kg) in 2023 and subsequent years. The commercial sector (including for-hire vessels that sell their catch) is not expected to harvest the proposed ACL in full in the short-term, based on the annual average commercial cobia landings for the FLEC zone from 2015 through 2019. However, harvest of the full FLEC zone ACL in the future would result in an increase in estimated ex-vessel value of $25,600 to $43,000 (2019 dollars) relative to the status quo. Divided by the number of commercial vessels from 2015 through 2019 with reported FLEC zone cobia landings, this would translate to an increase in ex-vessel revenue of $103 to $173 dollars per vessel (less than one percent of average annual per vessel revenue).

This proposed rule would use the Gulf Council's ACL/ACT Control Rule to calculate ACTs for the Gulf zone and the recreational sector in the FLEC zone, setting each ACT at 10 percent below their respective zone ACLs. The Gulf zone stock ACT, which is shared by the commercial and recreational sectors, would be 1,474,200 lb (668,686 kg) in 2022 and 1,564,920 lb (709,836 kg) in 2023 and subsequent years. In the Gulf zone, the switch from a constant ACT to an ACT calculated using the Gulf's control rule would result in the same buffer between the ACL and the ACT of 10 percent. Therefore, this proposed change to the method used for setting the ACT would not affect Gulf commercial cobia fishing practices or harvests in the Gulf zone and would not result in economic effects. The FLEC zone currently has no commercial sector ACT and none is proposed.

This proposed rule would also reduce the daily possession limit for cobia in the Gulf zone, for both recreational and

commercial sectors, to one fish per person. This commercial limit would be codified as a commercial trip limit and the recreational limit as a recreational bag limit. NMFS expects this to reduce commercial Gulf zone cobia landings by 51 lb (23 kg) in total each year. The associated loss in aggregate ex-vessel revenue expected to result from this reduction is estimated at $188 (2019 dollars). The proposed rule would also create a recreational vessel limit of two fish per trip and a commercial trip limit of two fish per trip, noting that fishermen may not exceed the per person daily possession limit. NMFS expects this to reduce commercial landings by 1,295 lb (587 kg). The associated loss in ex-vessel revenue is estimated at $4,793 (2019 dollars) or approximately $18 per vessel per year, on average. It is not possible to quantify the direct economic effects of these changes on for-hire fishing vessels because data that describe commercial cobia landings on for-hire vessels are not available; however, the proposed commercial daily possession limit and commercial trip limit may reduce their opportunity to sell cobia.

Moreover, this proposed rule would reduce the daily possession limit for cobia in the FLEC zone, for both commercial and recreational sectors, to one fish per person. NMFS expects this to reduce total commercial FLEC zone cobia landings by 6,127 lb (2,779 kg). The associated loss in ex-vessel revenue is estimated at $25,857 (2019 dollars) or approximately $104 per vessel per year, on average. The proposed rule would also create a recreational vessel limit of two fish per trip and a commercial vessel trip limit of two fish per trip, noting that fishermen may not exceed the per person daily possession limit. NMFS expects this to reduce total commercial landings by 3,939 lb (1,787 kg). The associated loss in ex-vessel revenue is estimated at $16,622 (2019 dollars) or approximately $67 per vessel per year, on average. It is not possible to quantify the direct economic effects of these changes on for-hire fishing vessels due to data limitations described earlier; however, the proposed commercial daily possession limit and commercial trip limit may reduce their opportunity to sell cobia.

This proposed rule would retain the current minimum size limit of 36 inches, fork length, in the Gulf zone and increase the minimum size limit from 33 inches FL to 36 inches FL in the FLEC zone. NMFS expects this to reduce commercial landings in the FLEC zone by 11,904 lb (5,400 kg). The associated loss in ex-vessel revenue is estimated to be $50,237 (2019 dollars) or approximately $203 per vessel per year, on average (less than one percent of average annual per vessel revenue). It is not possible to quantify the direct economic effects of the change in the minimum size limit on for-hire fishing vessels due to data limitations described earlier; however, it may reduce their opportunity to sell cobia.

Finally, this proposed rule would modify the framework procedure to update the responsibilities of each Council for setting regulations for Gulf cobia. Specifically, it would expand the South Atlantic Council's responsibilities for Gulf cobia in the FLEC zone to include: per person bag and possession limits, size limits, in-season and post-season accountability measures, and specification of ACTs or sector ACTs. The South Atlantic Council would independently approve framework actions pertaining to these specific management measures for the FLEC zone for Gulf cobia. Two additional corrections are being included to the framework procedure via this proposed rule. Atlantic group cobia was removed from the CMP FMP through the final rule implementing Amendment 31. However, the CMP framework procedure was not updated at that time to remove reference to Atlantic group cobia. In addition, the CMP framework language referencing the ABC/ACL Control Rule is incorrect because it lacks an ABC/ACL control rule. Instead, the CMP framework language should refer to the ABC and ACL/ACT Control Rules. The Councils are making these corrections through this proposed rule. The proposed changes to the CMP framework are administrative in nature and would not have direct economic effects on any small entities.

The following discussion describes the alternatives that were not selected as preferred by the Councils.

Three alternatives were considered for the action to modify the Gulf cobia OFL, ABC, and ACL. The first alternative, the no action alternative, would maintain the current reference points (OFL and ABC) and the stock ACL for Gulf group cobia. The no-action alternative would not be expected to change fishing practices or commercial harvests of Gulf cobia, nor result in economic effects. This alternative was not selected by the Councils because it would be inconsistent with the SSCs' latest catch limit recommendations and the transition to MRIP–FES, and therefore, would not be based on the best scientific information available. The second alternative is the preferred alternative. The third alternative would modify the Gulf cobia stock OFL, ABC, and ACL as a constant catch value for 2021 and subsequent fishing years or until changed by a future management action. The stock ACL would be set equal to the stock ABC or 2,340,000 lb (1,061,406 kg) for 2021 and thereafter. This would be 260,000 lb (117,934 kg) less than the preferred alternative in 2022 and 420,000 lb (190,509 kg) less than the preferred alternative for 2023 and subsequent years. Therefore, this alternative would be expected to provide fewer commercial fishing opportunities and lower economic benefits in the long term as compared to the preferred alternative. This alternative was not selected by the Councils because they determined that it was unnecessary to prevent overfishing and would unnecessarily limit future harvest levels and associated economic benefits for the commercial and recreational sectors.

Four alternatives were considered for the action to modify the Gulf cobia stock apportionment between the Gulf zone and the FLEC zone. The first alternative, the no action alternative, would retain the current Gulf cobia stock ACL apportionment of 64 percent to the Gulf zone and 36 percent to the FLEC zone based on MRIP–CHTS average landings for Gulf cobia for the years 1998–2012. The first alternative was not selected by the Councils. It would not align with the SSCs' OFL and ABC recommendations based on the SEDAR 28 Update assessment to monitor recreational catch and effort in MRIP–FES data currency (SEDAR 28 Update 2020), nor would the calculation use FLEC zone cobia-specific landings. The second alternative would retain the Gulf cobia stock ACL apportionment between the zones at 64 percent to the Gulf zone and 36 percent to the FLEC zone, and use this apportionment to update both zone ACLs in MRIP–FES units. This alternative was not selected by the Councils because it fails to account for the effects of the change in recreational data reporting on historical landings during the time series used to set the current allocation (1998–2012). The third alternative is the preferred alternative. The fourth alternative would modify the Gulf cobia stock ACL apportionment to be 59 percent to the Gulf zone and 41 percent to the FLEC zone, based on the MRIP–FES average landings for Gulf cobia for the years 2003–2019, and use this apportionment to update the zone ACLs. This would result in a 4 percent lesser allocation percentage to the Gulf zone relative to the preferred alternative. The Councils did not select this alternative because the landings during the latter years in the time series may be biased by recent

changes in the management of Gulf cobia.

Four alternatives were considered for the action to modify the FLEC zone cobia allocation between the commercial and recreational sectors. The first alternative, the no action alternative, would retain the FLEC zone cobia ACL allocation of 8 percent to the commercial sector and 92 percent to the recreational sector based on the South Atlantic Council's allocation formula for Atlantic group cobia based on MRIP–CHTS landings, which balanced historical catches (2000–2008) with more recent landings (2006–2008). The first alternative was not selected by the Councils. It would not align with the SSCs' OFL and ABC recommendations based on the SEDAR 28 Update assessment to monitor recreational catch and effort in MRIP–FES data currency (SEDAR 28 Update 2020). The second alternative would modify the FLEC zone cobia ACL allocation to be 5 percent to the commercial sector and 95 percent to the recreational sector based on the South Atlantic Council's allocation formula for Atlantic group cobia applied to historic MRIP–FES data for FLEC zone cobia specific landings. This formula balanced historical catches landings (2000–2008) with more recent landings (2006–2008). This alternative would result in a FLEC zone commercial ACL of 48,100 lb (21,818 kg) in 2022 and 51,060 lb (23,160 kg) in 2023 and subsequent years based on the preferred alternative in the first action for an increasing catch yield stream. Relative to the preferred alternative this would be a decrease in the FLEC zone commercial ACL of 28,860 lb (13,091 kg) in 2022 and 30,636 lb (13,896 kg) in 2023 and subsequent years. If the commercial ACL constrains harvest in the future, this would represent a potential loss in ex-vessel revenue of $121,789 to $129,284 (2019 dollars); or, approximately $491 to $521 per vessel per year, on average. The Councils did not select this alternative because they did not want to decrease the commercial sector ACL. The third alternative is the preferred alternative. The fourth alternative would modify the FLEC zone cobia ACL allocations to be calculated based on maintaining the current commercial ACL (*i.e.,* 70,000 lb (31,751 kg)) beginning in the 2021 fishing year and allocating the remaining revised total ACL to the recreational sector. The allocation percentages for 2021 would then be applied to the FLEC zone cobia ACL in years following 2021. This alternative would result in a FLEC zone commercial ACL of 77,778 lb (35,280 kg) in 2022 and 82,564 lb (37,450 kg) in 2023 and subsequent years. Relative to the preferred alternative this would be an increase in the FLEC zone commercial ACL of 818 lb (371 kg) in 2022 and 868 lb (394 kg) in 2023 and subsequent years. If the commercial ACL constrains harvest in the future, this would represent a potential increase in aggregate ex-vessel revenue of $3,452 to $3,663 (2019 dollars); or, approximately $15 per vessel per year, on average. This alternative was not selected by the Councils because they believed it was a more complicated approach to achieving the same goal as the preferred alternative (no reduction in the commercial ACL), the benefits to the commercial sector would be minimal, and it would potentially create confusion for fishery stakeholders when revisiting sector allocations in the future.

Three alternatives were considered for the action to update and/or establish ACTs for the Gulf group cobia zones. The first alternative, the no action alternative, would maintain the current formula for setting the Gulf cobia ACTs in the Gulf zone and FLEC zone. Under this alternative the Gulf zone ACT would be set at 90 percent of the Gulf zone ACL and the FLEC zone ACT would be set at the FLEC zone ACL multiplied by [(1-Proportional Standard Error [PSE] of the FLEC zone recreational landings) or 0.5, whichever is greater]. This alternative would result in the same ACT buffer for the Gulf zone of 10 percent relative to the preferred alternative. However, the FLEC zone recreational sector would retain a 17 percent ACT buffer. This alternative was not selected by the Councils because they wanted a consistent method for setting ACTs in each zone. The second alternative is the preferred alternative. The third alternative would establish an ACT for the commercial sector in the FLEC zone using the Gulf Council's ACL/ACT Control Rule. Relative to the preferred alternative, this alternative has the potential to reduce commercial fishing opportunities for FLEC zone cobia, as this sector has not historically had an ACT. Therefore, it would be expected to result in greater associated economic losses to commercial fishing businesses over the long term. This alternative was not selected by the Councils because the commercial quota monitoring system is effective and there is low risk of overages for the FLEC zone commercial sector.

Four alternatives were considered for the action to modify the possession, vessel, and trip limits for cobia in the Gulf zone. The first alternative, the no action alternative, would retain the current commercial and recreational daily possession limit of two fish per person and would not implement a vessel or trip limit. Therefore, this alternative would not be expected to result in economic effects to small entities. This alternative was not selected by the Councils because it would forgo biological benefits to the stock afforded by reduced fishing pressure. The second alternative is the preferred alternative and contains two preferred options that would apply to both the recreational sector and the commercial sector, respectively. The third alternative, which was also selected as preferred, would create a recreational vessel limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The third alternative contained three options. The first option was selected as preferred, which would set the recreational vessel limit at two fish per vessel per trip. The second and third options would set the vessel limit per trip at four fish and six fish, respectively. Changes to the recreational vessel limit would not have a direct economic effect on any small entities. The fourth and final alternative for this action, also selected as preferred, would set a commercial trip limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The fourth alternative also contained three options. The first option was selected as preferred, which would set the commercial trip limit at two fish per trip. The second and third options would set the trip limit at four fish and six fish, respectively. Relative to the preferred option, these would be expected to result in commercial cobia landings that are 926 to 1,296 lb (420 to 588 kg) greater. These additional landings would be worth an estimated $3,426 to $4,795 (2019 dollars) or less than $19 in ex-vessel revenue per vessel per year, on average. The Councils did not select the second and third options because they would be inconsistent with harvest limits in Florida state waters in the Gulf and, therefore, would not aid with compliance and enforcement.

Four alternatives were considered for the action to modify the possession, vessel, and trip limits for cobia in the FLEC zone. The first alternative, the no action alternative, would retain the current recreational and commercial daily possession limit of two fish per person in the FLEC zone, and would not implement a vessel or trip limit. Therefore, this alternative would not be expected to result in economic effects to small entities. This alternative was not selected by the Councils because it

would forgo biological benefits to the stock afforded by reduced fishing pressure as well as a potentially longer recreational season. The second alternative is the preferred alternative and contains two preferred options that would apply to both the recreational sector and the commercial sector, respectively. The third alternative, which was also selected as preferred, would create a recreational vessel limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The third alternative contained three options. The first option was selected as preferred, which would set the recreational vessel limit at two fish per vessel per trip. The second and third options would set the vessel limit per trip at four fish and six fish, respectively. Changes to the recreational vessel limit would not have a direct economic effect on any small entities. The fourth and final alternative for this action, also selected as preferred, would set a commercial vessel trip limit; however, fishermen would not be allowed to exceed the per person daily possession limit. The fourth alternative also contained three options. The first option was selected as preferred, which would set the commercial vessel trip limit at two fish per trip. The second and third options would set the commercial vessel trip limit at four fish and six fish, respectively. Relative to the preferred option, these would be expected to result in commercial cobia landings that are 2,626 lb (1,191 kg) greater. These additional landings would be worth an estimated $11,082 (2019 dollars) or approximately $45 in ex-vessel revenue per vessel per year, on average. The Councils did not select the second and third options because they wanted to be consistent with the commercial trip limit proposed for the Gulf zone.

Four alternatives were considered for the action to modify the Gulf cobia minimum size limit. The first alternative, the no action alternative, would retain the current commercial and recreational minimum size limit of 36 inches (94.1 cm), fork length, in the Gulf zone and 33 inches (83.8 cm), fork length, in the FLEC zone. This would not be expected to result in economic effects on any small entities. The first alternative was not selected by the Councils, because they believed an increased minimum size limit in the FLEC zone would benefit the stock by allowing for a greater proportion of the stock to become sexually mature prior to being harvested. They also wanted consistent cobia size limits in Federal waters. The second alternative is the preferred alternative. The third alternative would increase the commercial and recreational minimum size limit to 39 inches (99.1 cm), fork length. The third alternative contained two options that would apply the 39 inch (99.1 cm) minimum size limit to the Gulf zone and the FLEC zone, respectively. Increasing the minimum size limit to 39 inches (99.1 cm), fork length, from 36 inches (94.1 cm), fork length, in the Gulf zone would be expected to result in a loss of 9,618 lb (4,363 kg) and $35,586 (2019 dollars) in ex-vessel revenue ($136 per vessel per year, on average). In the FLEC zone, a minimum size limit of 39 inches (99.1 cm), fork length, would lead to a loss in landings that is 9,498 lb (4,308 kg) greater than what is expected under the preferred alternative. This would translate into an additional $40,078 (2019 dollars) reduction in ex-vessel revenue or $162 per vessel per year, on average, relative to the preferred alternative. The fourth and final alternative for this action would increase the commercial and recreational minimum size limit to 42 inches (106.7 cm), fork length. The fourth alternative contained two options that would apply the 42 inch (106.7 cm) minimum size limit to the Gulf zone and the FLEC zone, respectively. Increasing the minimum size limit to 42 inches (106.7 cm), fork length, would be expected to result in a loss of 19,287 lb (8,748 kg) and $71,361 (2019 dollars) in ex-vessel revenue ($273 per vessel per year, on average) in the Gulf zone. In the FLEC zone, a minimum size limit of 42 inches (106.7 cm), fork length, would lead to a loss in landings that is 14,487 lb (6,571 kg) greater than what is expected under the preferred alternative. This would translate into an additional $61,133 reduction in ex-vessel revenue or $247 per vessel per year, on average, relative to the preferred alternative. The Councils did not select the third or fourth alternative and two options for each of those two alternatives because they would indirectly drive fishing efforts to target more fecund female cobia, which may have a negative effect on the spawning stock biomass and could result in shorter fishing seasons due to heavier fish being landed.

Finally, two alternatives were considered for the action to modify the framework procedure. The first alternative, the no action alternative, would not make any changes to the framework procedure and thus would not have any economic effects on any small entities. It was not selected by the Councils because it would forgo the biological, social, and economic benefits of allowing the South Atlantic Council to react quicker and be more responsive to updated scientific information or changes in fishing harvest for FLEC zone cobia. The second alternative is the preferred alternative.

An additional item is contained in the proposed rule that is not included in Amendment 32, namely a revision to the language in 50 CFR 622.386(c). This revision would allow federally-permitted dealers to purchase cobia harvested in or from the Gulf or South Atlantic EEZ from any vessel, regardless of whether the vessel has been issued a Federal commercial vessel permit or a Federal charter vessel/headboat permit. It is unclear how many vessels and dealers would be impacted by this change; however, NMFS expects the direct economic effects to be positive because this change would expand the opportunity for federally and non-federally permitted vessels, and federally-permitted dealers to sell or buy Gulf cobia, respectively.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Annual catch limits, Bag and possession limits, Cobia, Fisheries, Fishing, Gulf of Mexico, Trip limits.

Dated: July 13, 2022.

Kimberly Damon-Randall,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.380, revise paragraph (a)(1)(ii) to read as follows:

§ 622.380 Size limits.

* * * * *

(a) * * *

(1) * * *

(ii) *Florida east coast zone.* 36 inches (91.4 cm), fork length.

* * * * *

■ 3. In § 622.382, add paragraph (b) to read as follows:

§ 622.382 Bag and possession limits.

* * * * *

(b) *Gulf migratory group cobia*—(1) *Bag limits.* The following applies to persons who fish for cobia in the Gulf zone or Florida east coast zone, and do not sell their catch.

(i) 1 fish per person per day, not to exceed 2 fish per vessel per trip.

(ii) [Reserved]

(2) [Reserved]

§ 622.383 [Removed and Reserved]

■ 4. Remove and reserve § 622.383.

■ 5. In § 622.384, revise paragraphs (d)(1) and (e)(2) to read as follows:

§ 622.384 Quotas.

* * * * *

(d) * * *

(1) *Gulf migratory group*—(i) *Gulf zone.* For the 2022 fishing year, the stock quota is 1,474,200 lb (668,686 kg). For the 2023 fishing year and subsequent fishing years, the stock quota is 1,564,920 lb (709,836 kg).

(ii) *Florida east coast zone.* The following quotas apply to persons who fish for cobia and sell their catch. For the 2022 fishing year the quota is 76,960 lb (34,908 kg). For the 2023 fishing year and subsequent fishing years the quota is 81,696 lb (37,057 kg).

* * * * *

(e) * * *

(2) The sale or purchase of king mackerel, Spanish mackerel, or cobia of the closed species, migratory group, zone, or gear type is prohibited, including any king or Spanish mackerel taken under the bag and possession limits specified in § 622.382(a), or cobia taken under the bag and possession limits specified in § 622.382(b). The prohibition on the sale or purchase during a closure for coastal migratory pelagic fish does not apply to coastal migratory pelagic fish that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

■ 6. In § 622.385, add paragraph (c) to read as follows:

§ 622.385 Commercial trip limits.

* * * * *

(c) *Cobia.* (1) [Reserved]

(2) *Gulf migratory group.* The following trip limit applies to persons who fish for cobia and sell their catch.

(i) *Gulf zone and Florida east coast zone.* Cobia in or from the EEZ may be possessed or landed in amounts not exceeding 1 fish per person and 2 fish per vessel.

(ii) [Reserved]

■ 7. In § 622.386, revise paragraph (c) to read as follows:

§ 622.386 Restrictions on sale/purchase.

* * * * *

(c) *Dealer receipt of fish.* King or Spanish mackerel harvested in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ may be first received by a dealer who has a valid Federal Gulf and South Atlantic dealer permit, as required under § 622.370(c)(1), only from a vessel that has a valid Federal commercial vessel permit for king or Spanish mackerel, as required under § 622.370(a), or a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish, as required under § 622.370(b).

* * * * *

■ 8. In § 622.388, revise paragraph (e)(1)(ii), (e)(2)(ii)(A), and (e)(2)(iii) to read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(e) * * *

(1) * * *

(ii) The stock ACLs for Gulf migratory group cobia in the Gulf zone are 1,638,000 lb (742,984 kg) for 2022, and 1,738,800 lb (788,706 kg) for 2023 and subsequent fishing years.

(2) * * *

(ii) * * *

(A) If the sum of cobia landings that are sold and not sold, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (e)(2)(iii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the length of the following fishing season by the amount necessary to ensure landings may achieve the applicable ACT, but do not exceed the applicable ACL in the following fishing year. Further, during that following year, if necessary, the AA may file additional notification with the Office of the Federal Register to readjust the reduced fishing season to ensure harvest achieves the ACT but does not exceed the ACL. The applicable ACTs for the Florida east coast zone of cobia are 796,536 lb (361,303 kg) for 2022, and 845,554 lb (383,537 kg) for 2023 and subsequent fishing years. The applicable ACLs for the Florida east coast zone of cobia are 885,040 lb (401,447 kg) for 2022, and 939,504 lb (426,152 kg) for 2023 and subsequent fishing years.

* * * * *

(iii) *Stock ACLs.* The stock ACLs for Florida east coast zone cobia are 962,000 lb (436,356 kg) for 2022, and 1,021,200 lb (463,209 kg) for 2023 and subsequent fishing years.

[FR Doc. 2022–15272 Filed 7–15–22; 8:45 am]

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Notices

Federal Register
Vol. 87, No. 136
Monday, July 18, 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 COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Delivery Verification Procedures for Imports

AGENCY: Bureau of Industry and Security, 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 September 16, 2022.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0016 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 Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign governments, on occasions, require U.S. importers of strategic commodities to furnish their foreign supplier with a U.S. Delivery Verification Certificate validating that the commodities shipped to the U.S. were in fact received. This procedure increases the effectiveness of controls on the international trade of strategic commodities.

II. Method of Collection

Paper or Electronic.

III. Data

OMB Control Number: 0694–0016.
Form Number(s): BIS –647P.
Type of Review: Regular submission, extension of a current information collection.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 100.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 56.
Estimated Total Annual Cost to Public: 0.
Respondent's Obligation: Voluntary.
Legal Authority: Public Law 95–223, Sec 203. International Emergency Economic Powers Act (IEEPA).

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. 2022–15238 Filed 7–15–22; 8:45 am]
BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–888]

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Initiation and Preliminary Results of Changed Circumstances Review and Intent To Revoke Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is initiating, and issuing preliminary results for, a changed circumstances review (CCR) of the antidumping duty (AD) order on floor-standing, metal-top ironing tables and certain parts thereof from the People's Republic of China (China) based upon a request from Home Products International (the petitioner). We preliminarily determine that the AD order on floor-standing, metal-top ironing tables and certain parts thereof from China should be revoked, in its entirety. Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, 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) 482–4475.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2004, Commerce published the *Order*.[1] On May 27, 2022, the petitioner requested that Commerce conduct an expedited CCR for the *Order,* pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b), and 19 CFR 351.221(c)(3)(ii).[2] The petitioner expressed a lack of interest in the continuation of the *Order* and requested the revocation of the *Order.* In its request, the petitioner addressed the conditions under which Commerce may revoke an order in whole or in part pursuant to 19 CFR 351.222(g).[3]

Scope of the Order

For purposes of this *Order,* the product covered consists of floor-standing, metal-top ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. The subject tables are designed and used principally for the hand ironing or pressing of garments or other articles of fabric. The subject tables have full-height leg assemblies that support the ironing surface at an appropriate (often adjustable) height above the floor. The subject tables are produced in a variety of leg finishes, such as painted, plated, or matte, and they are available with various features, including iron rests, linen racks, and others. The subject ironing tables may be sold with or without a pad and/or cover. All types and configurations of floor-standing, metal-top ironing tables are covered by this *Order.*

Furthermore, this *Order* specifically covers imports of ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. For purposes of this *Order,* the term ''unassembled'' ironing table means a product requiring the attachment of the leg assembly to the top or the attachment of an included feature such as an iron rest or linen rack. The term ''complete'' ironing table means product sold as a ready-to-use ensemble consisting of the metal-top table and a pad and cover, with or without additional features, *e.g.,* iron rest or linen rack. The term ''incomplete'' ironing table means product shipped or sold as a ''bare board''—*i.e.,* a metal-top table only, without the pad and cover—with or without additional features, *e.g.,* iron rest or linen rack. The major parts or components of ironing tables that are intended to be covered by this order under the term ''certain parts thereof'' consist of the metal top component (with or without assembled supports and slides) and/or the leg components, whether or not attached together as a leg assembly. The *Order* covers separately shipped metal top components and leg components, without regard to whether the respective quantities would yield an exact quantity of assembled ironing tables.

Ironing tables without legs (such as models that mount on walls or over doors) are not floor-standing and are specifically excluded. Additionally, tabletop or countertop models with short legs that do not exceed 12 inches in length (and which may or may not collapse or retract) are specifically excluded.

The subject ironing tables were previously classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0010. Effective July 1, 2003, the subject ironing tables are classified under new HTSUS subheading 9403.20.0011. The subject metal top and leg components are classified under HTSUS subheading 9403.90.8040. Although the HTSUS subheadings are provided for convenience and for Customs and Border Protection (CBP) purposes, Commerce's written description of the scope remains dispositive.

Initiation of Changed Circumstances Review

Section 751(b)(1) of the Act states that Commerce shall conduct a CCR upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 751(d)(1) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order, in whole or in part.[4] Further, 19 CFR 351.222(g)(2) provides that Commerce will conduct a CCR under 19 CFR 351.216, and may revoke an order, in whole or in part, if it determines that revocation is warranted.

In the event that Commerce determines that ''substantially all'' domestic producers have expressed a lack of interest in an order, both the Act and Commerce's regulations grant Commerce the authority to revoke the order.[5] Commerce has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[6] The petitioner's request indicated that it is the sole producer of the domestic like product and, therefore, accounts for at least 85 percent of domestic production.[7] In accordance with section 751(b)(1) of the Act, 19 CFR 351.216, 19 CFR 351.221, and 19 CFR 351.222(g), we are initiating this CCR.

Preliminary Results of Changed Circumstances Review

If Commerce concludes that expedited action is warranted, it may concurrently publish the notices of initiation and preliminary results of a CCR.[8] Commerce has combined the notice of initiation and preliminary results in CCRs when sufficient documentation has been provided supporting the request to make a preliminary determination.[9]

In this instance, we determine that there is sufficient information on the record to support a preliminary finding of changed circumstances.[10] Accordingly, we find that expedited action is warranted, and we are combining the notice of initiation and the notice of preliminary results, in accordance with 19 CFR 351.221(c)(3)(ii).

In accordance with 19 CFR 351.222(g), Commerce preliminarily determines that there is a reasonable basis to believe that changed circumstances exist sufficient to warrant revocation of the *Order.* Therefore, Commerce is notifying the public of its preliminary intent to revoke the *Order* in whole.

If we make a final determination to revoke the *Order,* we will instruct U.S. Customs and Border Protection (CBP) to

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China,* 69 FR 47868 (August 6, 2004) (*Order*).

[2] *See* Petitioner's Letter, ''Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China—Request for Changed Circumstances Review,'' dated May 27, 2022 (CCR Request).

[3] *Id.*

[4] *See* section 782(h) of the Act.

[5] *Id.; see also* 19 CFR 351.222(g).

[6] *See, e.g., Certain Cased Pencils from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent to Revoke Order in Part,* 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part,* 77 FR 53176 (August 31, 2012).

[7] *See* CCR Request at 2.

[8] *See* 19 CFR 351.221(c)(3)(ii).

[9] *See, e.g., Multilayered Wood Flooring from the People's Republic of China: Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews,* 82 FR 9561 (February 7, 2017), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Reviews,* 82 FR 14691 (March 22, 2017).

[10] *See* CCR Request at 4.

discontinue the suspension of liquidation and the collection of cash deposits of estimated ADs, to liquidate all unliquidated entries that were entered on or after the date of publication in the **Federal Register** of the notice of revocation of the *Order,* without regard to ADs, and to refund all AD cash deposits on all such merchandise, with applicable interest.

Public Comment

Any interested party may request a hearing within 14 days of publication of this notice, in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[11] Rebuttal comments, limited to issues raised in the case briefs, may be filed by no later than three days after the deadline for filing case briefs.[12] Any hearing, if requested, will normally be held two days after rebuttal briefs/comments are due, in accordance with 19 CFR 351.310(d)(1). Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this CCR are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.[13]

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* An electronically-filed document must be received successfully in its entirety by no later than 5:00 p.m. Eastern Time on the date the document is due.

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary findings.

[11] Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

[12] Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Notification to Interested Parties

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b) and 777(i) of the Act, and 19 CFR 351.216, 19 CFR 351.221(b)(1), (b)(4), and (c)(3), and 19 CFR 351.222(f)(2)(iv).

Dated: July 11, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement & Compliance.

[FR Doc. 2022–15205 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–053, C–570–054]

Certain Aluminum Foil From the People's Republic of China: Initiation of Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on available information, the Department of Commerce (Commerce) is self-initiating country-wide circumvention inquiries to determine whether imports of certain aluminum foil (aluminum foil), completed in the Republic of Korea (Korea) and the Kingdom of Thailand (Thailand) (collectively, the third countries) using inputs (*i.e.,* aluminum foil- and sheet-gauge products) manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum foil from China (collectively, the *Orders*).

DATES: Applicable July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Erin Kearney at (202) 482–0167, AD/CVD Operations, Office VI or Shawn Gregor at (202) 482–3226, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2017, The Aluminum Association Trade Enforcement Working Group filed petitions seeking the imposition of AD and CVD duties on imports of aluminum foil from China.[1] Following Commerce's affirmative determinations of dumping and countervailable subsidies,[2] and the U.S. International Trade Commission's (ITC) finding of material injury,[3] Commerce issued the *Orders.*[4]

Scope of the Orders

The merchandise covered by the *Orders* is certain aluminum foil from China, ''having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width.'' All aluminum foil is covered by the *Orders* regardless of specification. Excluded from the scope of the *Orders* is ''aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.'' For a full description of the scope of the *Orders, see* the ''Scope of the *Orders,*'' in the appendix to this notice.

Merchandise Subject to Circumvention Inquiries

The circumvention inquiries cover aluminum foil assembled and completed in Korea and Thailand, using Chinese-origin aluminum foil and/or sheet, that is subsequently exported from Korea and Thailand to the United States. Specifically, Commerce placed information on the administrative record, as attachments to its Initiation Memorandum, that indicates aluminum foil inputs produced in China undergo further processing in Korea and Thailand before being exported to the United States.[5] Commerce intends to

[1] *See Certain Aluminum Foil from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 15691 (March 30, 2017); *see also Certain Aluminum Foil from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 82 FR 15688 (March 30, 2017).

[2] *See Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018); *see also See Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order,* 83 FR 17362 (April 19, 2018); *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination,* 83 FR 9274 (March 5, 2018); and *Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 17360 (April 19, 2018).

[3] *See Aluminum Foil from China,* 83 FR 16128 (April 13, 2018); *see also Aluminum Foil from China,* Inv Nos. 701–TA–570 and 731–TA–1436, USITC Pub. 4771 (Final).

[4] *See Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order,* 83 FR 17362 (April 19, 2018); *see also Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 17360 (April 19, 2018) (collectively, *Orders*).

[5] *See* Memorandum, ''Aluminum Foil from the People's Republic of China: Initiation of

determine as part of this circumvention inquiry whether or not that further processing in Korea and Thailand is minor or insignificant and otherwise meets the circumvention criteria set forth in section 781(b) of the Act.

Statutory and Regulatory Requirements To Initiate Circumvention Inquiries

Section 351.226(b) of Commerce's regulations states that if Commerce ''determines from available information that an inquiry is warranted into the question of whether the elements necessary for a circumvention determination under section 781 of the Act exist,'' Commerce ''may initiate a circumvention inquiry and publish a notice of initiation in the **Federal Register**.''Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act) provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.[6] Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular circumvention inquiry.[7]

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

Available Information Supports Initiations of Circumvention Inquiries

Based on available information, we determine initiation of these circumvention inquiries are warranted to determine whether certain imports of aluminum foil, completed in the third countries using inputs manufactured in China, are circumventing the *Orders*.[8]

Commerce has made this determination in accordance with its analysis of the factors set forth in section 781(b) of the Act and 19 CFR 351.226(i).[9]

Pursuant to 19 CFR 351.226(f)(7), Commerce may ''alter or extend'' time limits under the circumvention inquiry as necessary to make certain all parties to each or both segments of the proceeding are able to file comments and factual information as necessary.

Consistent with the approach taken in prior circumvention inquiries that Commerce initiated on a country-wide basis, we intend to solicit information from certain companies in Korea and Thailand concerning their production of aluminum foil and their shipments thereof to the United States. A company's failure to completely respond to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Respondent Selection

Commerce intends to base respondent selection on responses to quantity and value questionnaires. Commerce intends to identify the companies to which it will issue the quantity and value questionnaire, in part, based on CBP data. Parties to which Commerce does not issue the quantity and value questionnaire may also respond to the quantity and value questionnaire, which will be available in ACCESS, by the

Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders (Initiation Memo).'' This memo is a public document dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024, of the main Department of Commerce building.

[6] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103–316 (1994) at 893.

[7] *See Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,* 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

[8] *See* Initiation Memorandum. As explained in the Initiation Memorandum, the available information supports initiating these circumvention inquiries on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts supported initiation on a country-wide basis. *See, e.g., Quartz Surface Products from the People's Republic of China: Initiation of Scope and Circumvention Inquiries of the Antidumping Duty and Countervailing Duty* Orders, 87 FR 6844 (February 7, 2022); *see also* Oil *Country Tubular Goods from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping and Countervailing Duty Orders,* 85 FR 71877, 71878–79 (November 12, 2020); *Stainless Steel Sheet and Strip from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping and Countervailing Duty Orders,* 85 FR 29401, 29402 (May 15, 2020); *Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 84 FR 43585 (August 21, 2019); *Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order,* 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted). Pursuant to section 19 CFR 351.226(m), even if Commerce initiates an inquiry on a country-wide basis, if it subsequently finds circumvention to exist, it is not required to apply its ultimate determination on a country-wide basis, but has the discretion to apply that circumvention determination as it deems appropriate.

[9] *See* Initiation Memorandum.

applicable deadline. Commerce intends to place the CBP data on the record within five days of publication of the initiation notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after placement of the CBP data on the record of the relevant inquiry.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), when Commerce self-initiates a circumvention inquiry under 19 CFR 351.226(b), Commerce will notify U.S. Customs and Border Protection (CBP) of the initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be circumventing the order. Accordingly, Commerce will notify CBP of the initiation of the circumvention inquiry and direct CBP to continue to suspend (unliquidated) entries of the products subject to the circumvention inquiry that were already subject to the suspension of liquidation. In addition, Commerce will direct CBP to apply the cash deposit rate that would be applicable if the products were determined to be circumventing the *Orders.*

Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)–(4). In the event Commerce issues affirmative preliminary or final circumvention determinations that the products are circumventing the *Orders,* Commerce will instruct CBP to continue the suspension of liquidation of previously suspended entries and to apply the applicable cash deposit rate. Commerce will also instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the notice of initiation of the circumvention inquiry pursuant to paragraphs (l)(2)(ii) and (l)(3)(ii). In addition, pursuant to paragraphs (l)(2)(iii)(A) and (l)(3)(iii)(A), Commerce may instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, prior to the date of initiation of the circumvention inquiry, but not for such entries prior to November 4, 2021, the effective date of these provisions in the *Final Rule.*[10] These rules will not affect CBP's authority to take any additional action with respect to the suspension of liquidation or related measures for these entries, as stated in 19 CFR 351.226(l)(5).

Notification to Interested Parties

In accordance with section 19 CFR 351.226(b) and 781(b) of the Act, Commerce determines that available information supports initiating circumvention inquiries to determine whether certain imports of aluminum foil, assembled and completed in, and exported from, Korea and Thailand using inputs manufactured in China, are circumventing the *Orders.* Accordingly, Commerce is notifying all interested parties of the initiation of circumvention inquiries. In addition, we have included a description of the products that are the subject of these inquiries, and an explanation of the reasons for Commerce's decision to initiate these inquiries as provided above and in the accompanying Initiation Memorandum.

In accordance with 19 CFR 351.226(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct CBP to suspend liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiries. Commerce intends to issue its final determinations within 300 days from the date of publication of the notice of initiation of a circumvention inquiry in the **Federal Register**.

This notice is published in accordance with 19 CFR 351.226(b) and section 781(b) of the Act.

Dated: July 11, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The merchandise covered by the orders is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of the orders is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under the orders are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of these proceedings may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

[10] *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52345 (September 20, 2021) (*Final Rule*).

[FR Doc. 2022–15204 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Interim Procedures for Considering Requests Under the Commercial Availability Provision of the United States-Panama Trade Promotion Agreement

On behalf of the Committee for the Implementation of Textile Agreements (CITA), 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 April 29, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Committee for the Implementation of Textile Agreements.

Title: Interim Procedures for Considering Requests under the Commercial Availability Provision of the United States-Panama Trade Promotion Agreement.

OMB Control Number: 0625–0273.

Form Number(s): None.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 16 (10 for Requests; 3 for Responses; 3 for Rebuttals).

Average Hours per Response: 8 hours per Request; 2 hours per Response; and 1 hour per Rebuttal.

Burden Hours: 89.

Needs and Uses: Title II, Section 203(o) of the United States-Panama Trade Promotion Agreement Implementation Act (the ''Act'') [Pub. L. 112–43] implements the commercial availability provision provided for in Article 3.25 of the United States-Panama Trade Promotion Agreement (the ''Agreement''). The Agreement entered into force on October 31, 2012. Subject to the rules of origin in Annex 4.1 of the Agreement, and pursuant to the textile provisions of the Agreement, a fabric, yarn, or fiber produced in Panama or the United States and traded between the two countries is entitled to duty-free tariff treatment. Annex 3.25 of the Agreement also lists specific fabrics, yarns, and fibers that the two countries agreed are not available in commercial quantities in a timely manner from producers in Panama or the United States. The items listed in Annex 3.25 are commercially unavailable fabrics, yarns, and fibers. Articles containing these items are entitled to duty-free or preferential treatment despite containing inputs not produced in Panama or the United States.

The list of commercially unavailable fabrics, yarns, and fibers may be changed pursuant to the commercial availability provision in Chapter 3, Article 3.25, Paragraphs 4–6 of the Agreement. Under this provision, interested entities from Panama or the United States have the right to request that a specific fabric, yarn, or fiber be added to, or removed from, the list of commercially unavailable fabrics, yarns, and fibers in Annex 3.25 of the Agreement.

Pursuant to Chapter 3, Article 3.25, paragraph 6 of the Agreement, which requires that the President publish procedures for parties to exercise the right to make these requests, Section 203(o)(4) of the Act authorizes the President to establish procedures to modify the list of fabrics, yarns, or fibers not available in commercial quantities in a timely manner in either the United States or Panama as set out in Annex 3.25 of the Agreement. The President delegated the responsibility for publishing the procedures and administering commercial availability requests to the Committee for the Implementation of Textile Agreements (''CITA''), which issues procedures and acts on requests through the U.S. Department of Commerce, Office of Textiles and Apparel (''OTEXA'') (See Proclamation No. 8894, 77 FR 66507, November 5, 2012).

The intent of the Commercial Availability Procedures is to foster the use of U.S. and regional products by implementing procedures that allow products to be placed on or removed from a product list, in a timely manner, and in a manner that is consistent with normal business practice. The procedures are intended to facilitate the transmission of requests; allow the market to indicate the availability of the supply of products that are the subject of requests; make available promptly, to interested entities and the public, information regarding the requests for products and offers received for those products; ensure wide participation by interested entities and parties; allow for careful review and consideration of information provided to substantiate requests and responses; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

CITA must collect certain information about fabric, yarn, or fiber technical specifications and the production capabilities of Panamanian and U.S. textile producers to determine whether certain fabrics, yarns, or fibers are available in commercial quantities in a timely manner in the United States or Panama, subject to Section 203(o) of the Act.

Affected Public: Business or other for-profit.

Frequency: Varies.

Respondent's Obligation: Voluntary.

Legal Authority: Title II, Section 203(o) of the United States-Panama Trade Promotion Agreement Implementation Act (the ''Act'') [Pub. L. 112–43].

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0625–0273.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–15262 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–045]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Rachel Jennings, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1110.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 2017, Commerce published in the **Federal Register** the *Order* on HEDP from China.[1] On April 1, 2022, Commerce published the notice of initiation of the first sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On April 15, 2022, Commerce received a timely-filed notice of intent to participate in this review from Compass Chemical International, LLC (Compass), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] Compass claimed interested party status under section 771(9)(C) of the Act as a producer and wholesaler of a domestic like product in the United States.

On May 2, 2022, Commerce received an adequate substantive response to the *Initiation Notice* from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] We received no substantive responses from any other interested parties. On May 24, 2022, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The merchandise covered by the *Order* includes all grades of aqueous acidic (non-neutralized) concentrations of HEDP, also referred to as hydroxyethylidenendiphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The Chemical Abstract Service (CAS) registry number for HEDP is 2809–21–4.

The merchandise subject to the *Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.90.9043. It may also enter under HTSUS subheadings 2811.19.6090, 2811.19.6190, 2931.39.0018, 2931.90.9041, and 2931.90.9051.[6] While HTSUS subheadings and the CAS registry number are provided for convenience and customs purposes only, the written description of the scope of the *Order* is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the accompanying Issues and Decision Memorandum.[7] A list of topics discussed in the Issues and Decision Memorandum is included as 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 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 Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to the continuation of or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be the weighted-average dumping margins as follows:

Producer	Exporter	Weight-average dumping margin (percent)
Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory.	Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory and Nantong Uniphos Chemicals Co., Ltd.	67.66
Shandong Taihe Water Treatment Technologies Co., Ltd	Shandong Taihe Chemicals Co., Ltd	167.58
Henan Qingshuiyuan Technology Co., Ltd	Henan Qingshuiyuan Technology Co., Ltd	90.64
Jianghai Environmental Protection Co., Ltd	Jianghai Environmental Protection Co., Ltd	90.64
China-Wide Entity		167.58

[1] *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 82 FR 22807 (May 18, 2017) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 19069 (April 1, 2022) (*Initiation Notice*).

[3] *See* Compass's Letter, ''Notice of Intent to Participate,'' dated April 15, 2022.

[4] *See* Compass's Letter, ''Substantive Response to the Notice of Initiation,'' dated May 2, 2022.

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated on April 1, 2022,'' dated May 24, 2022.

[6] On September 24, 2020, U.S. Customs and Border Protection notified Commerce of additional HTSUS subheadings under which subject merchandise can be entered. Accordingly, the scope of the *Order* now reflects those additional HTSUS subheadings. *See* Memorandum, ''Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File,'' dated October 2, 2020.

[7] *See* Memorandum ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Antidumping Duty Order on 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Administrative Protective Order (APO)

This notice serves as the only reminder to interested parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely 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.

Notification to Interested Parties

We are issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: July 11, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–15206 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–046]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from the People's Republic of China (China) would be likely to lead to the continuation or recurrence of countervailable subsidies at the levels indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 2017, Commerce published in the **Federal Register** the *Order* on HEDP from China.[1] On April 1, 2022, Commerce published the notice of initiation of the first sunset review of the *Order* on HEDP from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On April 15, 2022, Commerce received a timely notice of intent to participate from Compass Chemical International, LLC (Compass), *i.e.,* a domestic interested party.[3] Compass claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic like product in the United States.

On May 2, 2022, Commerce received a timely and adequate substantive response from Compass.[4] We received no substantive responses from any other interested parties, including the Government of China, nor was a hearing requested. On May 24, 2022, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order*.

Scope of the Order

The merchandise covered by the *Order* includes all grades of aqueous acidic (non-neutralized) concentrations of HEDP, also referred to as hydroxyethylidenendiphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The Chemical Abstract Service (CAS) registry number for HEDP is 2809–21–4.

The merchandise subject to the *Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.90.9043. It may also enter under HTSUS subheadings 2811.19.6090, 2931.90.9041, 2931.90.9051, 2811.19.6190, and 2931.39.0018.[6] While HTSUS subheadings and the CAS registry number are provided for convenience and customs purposes only, the written description of the scope of the *Order* is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the accompanying Issues and Decision Memorandum, which is dated concurrently with, and hereby adopted by, this notice.[7] The issues discussed in the Issues and Decision Memorandum are listed 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 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 Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to the continuation or recurrence of countervailable subsidies at the rates listed below:

[1] *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Countervailing Duty Order,* 82 FR 22809 (May 18, 2017) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 19069 (April 1, 2022).

[3] *See* Compass's Letter, ''l-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Notice of Intent to Participate,'' dated April 15, 2022.

[4] *See* Compass's Letter, ''1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Substantive Response to the Notice of Initiation,'' dated May 2, 2022.

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated on April 1, 2022,'' dated May 24, 2022.

[6] On September 24, 2020, U.S. Customs and Border Protection notified Commerce of additional HTSUS subheadings under which subject merchandise can be entered. Accordingly, the scope of the *Order* now reflects those additional HTSUS subheadings. *See* Memorandum, ''Update to the ACE CVD Case Reference File,'' dated June 7, 2022.

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Producer/exporter	Subsidy rate (percent ad valorem)
Shandong Taihe Chemicals Co., Ltd and Shandong Taihe Water Treatment Technologies Co., Ltd	2.40
All Others	2.40
Changzhou Kewei Fine Chemicals Co., Ltd	54.11
Hebei Longke Water Treatment Co., Ltd	54.11
Shandong Huayou Chemistry Co., Ltd	54.11
Shandong Xintai Water Treatment Technology	54.11
Zaozhuang Fuxing Water Treatment Technology	54.11
Zaozhuang YouBang Chemicals Co., Ltd	54.11
Zouping Dongfang Chemical Industry Co., Ltd	54.11

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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 results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: July 11, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–15207 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Department of Commerce Trade Finance Advisory Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The U.S. Department of Commerce Trade Finance Advisory Council (TFAC or the Council) will hold a virtual meeting on Thursday, August 4, 2022. The meeting is open to the public with registration instructions provided below.

DATES: Thursday, August 4, 2022, from approximately 1:00 to 2:45 p.m. Eastern Standard Time (EST). The deadline for members of the public to register, 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 July 29, 2022.

ADDRESSES: The meeting will be held virtually via Microsoft Teams video conferencing.

FOR FURTHER INFORMATION CONTACT: Patrick Zimet, Designated Federal Officer, Office of Finance and Insurance Industries (OFII), International Trade Administration, U.S. Department of Commerce at (202) 306–9474; email: *Patrick.Zimet@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background

The TFAC was originally chartered on August 11, 2016, pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App., and was most recently re-chartered on August 7, 2020. The TFAC serves as the principal advisory body to the Secretary of Commerce on policy matters relating to access to trade finance for U.S. exporters, including small- and medium-sized enterprises, and their foreign buyers. The TFAC is the sole mechanism by which the Department of Commerce convenes private sector stakeholders to identify and develop consensus-based solutions to trade finance challenges. The Council is comprised of a diverse group of stakeholders from the trade finance industry and the U.S. exporting community, as well as experts from academia and public policy organizations.

On Thursday, August 4, 2022, the TFAC will hold the fourth meeting of its 2020–2022 charter term. During the meeting, the TFAC will receive an update on the implementation status of previously adopted recommendations, the subcommittees will put forth recommendations for a vote by the full TFAC, and the TFAC will close out its charter term.

Meeting minutes will be available within 90 days of the meeting upon request or on the TFAC's website at *https://www.trade.gov/about-us/trade-finance-advisory-council-tfac.*

Public Participation

The meeting will be open to the public and there will be limited time permitted for public comments. Members of the public seeking to attend the meeting, make comments during the meeting, request auxiliary aids, or submit written comments for consideration prior to the meeting, are required to submit their requests electronically to *Patrick.Zimet@trade.gov* by 5:00 p.m. EST on Friday, July 29, 2022.

Members of the public may submit written comments concerning TFAC affairs at any time before or after a meeting. Comments may be submitted to Patrick Zimet. All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure.

Heather Sykes,

Acting Executive Director for Services.

[FR Doc. 2022–15273 Filed 7–15–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

District Export Council Nomination Opportunity

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity for appointment to serve as a District Export Council member.

SUMMARY: Due to an unexpectedly high rate of vacancies, the Department of Commerce is conducting a special appointment cycle to fill vacancies on certain District Export Council (DECs) and is seeking nominations of individuals for consideration for appointment by the Secretary of Commerce to those DECs. The DECs are closely affiliated with the U.S. Export Assistance Centers (USEACs) of the U.S. and Foreign Commercial Service (US&FCS), which is part of the Global Markets unit within the Department's International Trade Administration, and play a key role in the planning and coordination of export activities in their communities.

DATES: Nominations for individuals will be accepted from July 13, 2022, through July 27, 2022.

FOR FURTHER INFORMATION CONTACT: Please contact the Director of your local USEAC for more information on DECs and the nomination process. You may identify your local USEAC by entering your zip code online at *http://export.gov/usoffices/index.asp*. For general program information, contact Laura Barmby, National DEC Liaison, US&FCS, at (202) 482–2675.

SUPPLEMENTARY INFORMATION: District Export Councils support the mission of US&FCS by facilitating the development of an effective local export assistance network, supporting the expansion of export opportunities for local U.S. companies, serving as a communication link between the business community and US&FCS, and assisting in coordinating the activities of trade assistance partners to leverage available resources. Individuals appointed to a DEC become part of a select corps of trade professionals dedicated to providing international trade leadership and guidance to the local business community and assistance to the Department of Commerce on export development issues. DEC members are volunteers. DEC members are not special government employees. DEC members receive no compensation for their participation in DEC activities or reimbursement for travel and other personal expenses.

Nomination Process: Each DEC has a maximum membership of 35.

The list of DECs eligible for the appointment of new members in this special cycle and the nomination form will be available on July 13, 2022 at *https://app.keysurvey.com/f/41627625/a23c/.*

If selected, new DEC members appointed under this special appointment cycle would serve the remainder of a four-year term that began on January 1, 2022, and runs through December 31, 2025, or the remainder of a four-year term that began on January 1, 2020 and ends on December 31, 2023. Appointments are staggered so that approximately half of the appointments for each DEC expire every two years, and the need for a balance and fair representation requires that terms be determined at the time of appointment. All potential nominees must complete the online nomination form linked above and consent to sharing of the information on that form with the DEC Executive Committee for its consideration, and consent, if appointed, to sharing of their contact information with other DEC members and relevant government agencies and private sector organizations with a focus on trade. Interested individuals are highly encouraged to reach out to the local USEAC Director to learn more about the DECs and to begin the application process as soon as possible.

Eligibility and Appointment Criteria: Appointment is based upon an individual's international trade leadership in the local community, ability to influence the local environment for exporting, knowledge of day-to-day international operations, interest in export development, and willingness and ability to devote time to DEC activities. Members must be employed as exporters or export service providers or in a profession which supports U.S. export promotion efforts. Members include exporters, export service providers and others whose profession supports U.S. export promotion efforts. DEC member appointments are made without regard to political affiliation. DEC membership is open to U.S. citizens and permanent residents of the United States. As representatives of the local exporting community, DEC Members must reside in, or conduct the majority of their work in, the territory that the DEC covers. DEC membership is not open to federal government employees. Individuals representing foreign governments, including individuals registered with the Department of Justice under the Foreign Agents Registration Act, must disclose such representation and may be disqualified if the Department determines that such representation is likely to impact the ability to carry out the duties of a DEC member or raise an appearance issue for the Department.

Selection Process: Nominations of individuals who have applied for DEC membership will be forwarded to the local USEAC Director for the respective DEC for that Director's consideration. The local USEAC Director ensures that all nominees meet the membership criteria. The local USEAC Director then, in consultation with the local DEC Executive Committee, evaluates all nominations to determine their interest, commitment, and qualifications. In reviewing nominations, the local USEAC Director strives to ensure a balance among exporters from a manufacturing or service industry and export service providers. A fair representation should be considered from companies and organizations that support exporters, representatives of local and state government, and trade organizations and associations. Membership should reflect the diversity of the local business community, encompass a broad range of businesses and industry sectors, and be distributed geographically across the DEC service area, and where possible, the Department of Commerce will also consider the ethnic, racial, and gender diversity and various abilities of the United States population.

For past DEC members seeking reappointment, the local USEAC Director, in consultation with the DEC Executive Committee, also carefully considers the nominee's activity level during the previous term and demonstrated ability to work cooperatively and effectively with other DEC members and US&FCS staff. As appointees of the Secretary of Commerce in high-profile positions, though volunteers, DEC Members are expected to actively participate in the DEC and support the work of local US&FCS offices. Those that do not support the work of the office or do not actively participate in DEC activities will not be considered for re-nomination.

The local USEAC Director, in consultation with the local DEC Executive Committee, determines which nominees to forward to the US&FCS Office of U.S. Field for further consideration for recommendation to the Secretary of Commerce. A candidate's background and character are pertinent to determining suitability and eligibility for DEC membership. Since DEC appointments are made by the Secretary, the Department must make a suitability determination for all DEC nominees. After completion of a vetting process, the Secretary selects nominees for appointment to local DECs. DEC members are appointed by and serve at the pleasure of the Secretary of Commerce.

Authority: 15 U.S.C. 1512 and 4721.

Laura Barmby,

District Export Council Program Manager.

[FR Doc. 2022–15312 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Interim Procedures for Considering Requests Under the Commercial Availability Provision of the United States-Peru Trade Promotion Agreement Implementation Act

On behalf of the Committee of the Implementation for Textile Agreements (CITA), 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 April 29, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Committee for the Implementation of Textile Agreements.

Title: Interim Procedures for Considering Requests under the Commercial Availability Provision of the United States-Peru Trade Promotion Agreement Implementation Act.

OMB Control Number: 0625–0265.

Form Number(s): None.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 16 (10 for Requests; 3 for Responses; 3 for Rebuttals).

Average Hours per Response: 8 hours per Request; 2 hours per Response; and 1 hour per Rebuttal.

Burden Hours: 89.

Needs and Uses:

The United States and Peru negotiated the U.S.-Peru Trade Promotion Agreement (''the Agreement''), which entered into force on February 1, 2009. Subject to the rules of origin in Annex 4.1 of the Agreement, pursuant to the textile provisions of the Agreement, a fabric, yarn, or fiber produced in Peru or the United States and traded between the two countries is entitled to duty-free tariff treatment. Annex 3–B of the Agreement also lists specific fabrics, yarns, and fibers that the two countries agreed are not available in commercial quantities in a timely manner from producers in Peru or the United States. The items listed in Annex 3–B are commercially unavailable fabrics, yarns, and fibers. Articles containing these items are entitled to duty-free or preferential treatment despite containing inputs not produced in Peru or the United States.

The list of commercially unavailable fabrics, yarns, and fibers may be changed pursuant to the commercial availability provision in Chapter 3, Article 3.3, Paragraphs 5–7 of the Agreement. Section 203(o) of the Act implements the commercial availability provision of the Agreement. Under this provision, interested entities from Peru or the United States have the right to request that a specific fabric, yarn, or fiber be added to, or removed from, the list of commercially unavailable fabrics, yarns, and fibers in Annex 3–B.

Section 203(o) of the Act provides that the President may modify the list of fabrics, yarns, and fibers in Annex 3–B by determining whether additional fabrics, yarns, or fibers are not available in commercial quantities in a timely manner in the United States or Peru, and that the President will issue procedures governing the submission of requests and providing an opportunity for interested entities to submit comments. The President delegated the responsibility for publishing the procedures and administering commercial availability requests to CITA, which issues procedures and acts on requests through the U.S. Department of Commerce, Office of Textiles and Apparel (OTEXA) (*See* Proclamation No. 8341, 74 FR 4105, Jan. 22, 2009). Interim procedures to implement these responsibilities were published in the **Federal Register** on August 14, 2009. (*See* Interim Procedures for Considering Requests Under the Commercial Availability Provision of the United States-Peru Trade Promotion Agreement Implementation Act and Estimate of Burden for Collection of Information, 74 FR 41111, Aug. 14, 2009) (''Commercial Availability Procedures'').

The intent of the Commercial Availability Procedures is to foster the use of U.S. and regional products by implementing procedures that allow products to be placed on or removed from a product list, on a timely basis, and in a manner that is consistent with normal business practice. The procedures are intended to facilitate the transmission of requests; allow the market to indicate the availability of the supply of products that are the subject of requests; make available promptly, to interested entities and the public, information regarding the requests for products and offers received for those products; ensure wide participation by interested entities and parties; allow for careful review and consideration of information provided to substantiate requests and responses; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

CITA must collect certain information about fabric, yarn, or fiber technical specifications and the production capabilities of Peruvian and U.S. textile producers to determine whether certain fabrics, yarns, or fibers are available in commercial quantities in a timely manner in the United States or Peru, subject to Section 203(o) of the Act.

Affected Public: Business or other for-profit.

Frequency: Varies.

Respondent's Obligation: Voluntary.

Legal Authority: Section 203(o) of the U.S.-Peru TPA and Proclamation No. 8341, 74 FR 4105 (Jan. 22, 2009).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0625–0265.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–15255 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC161]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Testing and Training Operations in the Eglin Gulf Test and Training Range

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the United States (U.S.) Department of the Air Force (USAF) for authorization to take marine mammals incidental to testing and training military operations proposed to be conducted in the Eglin Gulf Test and Training Range (EGTTR) from 2023–2030 in the Gulf of Mexico. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Eglin Air Force Base (AFB) request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than August 17, 2022.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent to *ITP.Pauline@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 received electronically, 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/national/marine-mammal-protection/incidental-take-authorizations-construction-activities* 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: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

Electronic copies of the Navy's application and separate monitoring plan may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

In case of problems accessing these documents, please call the contact listed above.

Background

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 authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

The National Defense Authorization Act (NDAA) for Fiscal Year 2004 (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment). On August 13, 2018, the 2019 NDAA (Pub. L. 115–232) amended the MMPA to allow incidental take regulations for military readiness activities to be issued for up to seven years. The proposed action may incidentally expose marine mammals occurring in the vicinity of testing and training operations to elevated levels of underwater sounds in the form of airborne, surface and subsurface detonations of various military munitions, thereby resulting in incidental take, by Level A and Level B harassment. Therefore, the DAF requests authorization to incidentally take marine mammals.

Summary of Request

On June 17, 2022 NMFS received an adequate and complete application from the Eglin AFB requesting authorization for the take of marine mammals, by Level A and B harassment, incidental to testing and training operations (all categorized as military readiness activities). Proposed missions would include be air-to-surface operations that involve firing live or inert munitions, including missiles, bombs, and gun ammunition, from aircraft at targets on the water surface. The types of targets used vary by mission and primarily include stationary, remotely controlled, and towed boats, inflatable targets, and marker flares. Live munitions used in the EGTTR are set to detonate either in the air a few feet above the water surface (airburst detonation), instantaneously upon contact with the water or target (surface detonation), or approximately 5 to 10 feet (1.5 to 3 meters) below the water surface (subsurface detonation). Therefore, Eglin AFB requests authorization to take three species of marine mammals that may occur in this

area, Rice's whale (*Balaenoptera ricei*) Atlantic bottlenose dolphins (*Tursiops truncatus*) and Atlantic spotted dolphins (*Stenella frontalis*).

Eglin AFB is also proposing to create and use a new, separate area within the EGTTR that would be used for live missions in addition to the existing live impact area (LIA). Referred to as the East LIA, it is located approximately 40 nautical miles southeast of the existing LIA. The requested regulations will be valid for seven years, from 2023 through 2030.

NMFS issued incidental take regulations and a subsequent Letter of Authorization (LOA) to Eglin AFB for similar specified activities on February 8, 2018 (83 FR 5545). Prior to issuing the 5-year LOA in 2018, NMFS had issued multiple LOAs and 1 year incidental harassment authorizations (IHA) to Eglin AFB for take of marine mammals incidental to similar specified activities. Monitoring reports submitted to NMFS as a condition of the previously-issued LOAs and incidental take authorizations are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

Specified Activities

Eglin AFB proposes the following actions in the EGTTR which would be conducted in the existing LIA and potentially in the proposed East LIA, depending on the mission type and objectives: (1) 52rd Weapons Evaluation Group missions that involves air-to-ground Weapons System Evaluation Program (WSEP) known as Combat Hammer which tests various types of munitions against small target boats and air-to-air missile testing known as Combat Archer; (2) The Air Force Special Operations Command (AFSOC) proposes to continue training missions in the EGTTR primarily involving air-to-surface gunnery, bomb, and missile exercises including AC–130 gunnery training, CV–22 training, and bomb and missile training; (3) 96th Operations Group missions including AC–130 gunnery testing against floating marker targets on the water surface and MQ–9 air-to-surface testing; (3) 780th Test Squadron Precision Strike Weapons testing including air-launched cruise missile tests, Air-to-air missile tests, Longbow and Joint Air-to-Ground Missile (JAGM) testing; Spike Non-Line-of-Sight (NLOS) air-to-surface missile testing, Patriot missile testing, Hypersonic Weapon Testing, sink at-sea live-fire training exercises (SINKEX), and testing using live and inert munitions against targets on the water surface; and (4) Naval School Explosive Ordnance Disposal (NAVSCOLEOD) training missions that involve students diving and placing small explosive charges adjacent to inert mines.

During these activities, ordnances may be delivered by multiple types of aircraft, including bombers and fighter aircraft. Net explosive weights (NEW) of the live munitions range from 0.1 to 945 pounds (lb). A summary of munitions proposed for missions in the EGTTR is shown in Table 1.

TABLE 1—SUMMARY OF PROPOSED MUNITIONS FOR MISSIONS IN THE EGTTR

User group	Type	Category	Net explosive weight	Destination scenario	Annual quantity
53 WEG	AGR–20	Rocket	9.1	Surface	12
	AGM–158D JASSM XR	Missile	240.26	Surface	4
	AGM–158B JASSM ER	Missile	240.26	Surface	3
	AGM–158A JASSM	Missile	240.26	Surface	3
	AGM–65D	Missile	150	Surface	5
	AGM–65G2	Missile	145	Surface	5
	AGM–65H2	Missile	150	Surface	5
	AGM–65K2	Missile	145	Surface	4
	AGM–65L	Missile	150	Surface	5
	AGM–114 N–6D with TM	Missile	29.1	Surface	4
	AGM–114 N–4D with TM	Missile	29.94	Surface	4
	AGM–114 R2 with TM (R10)	Missile	27.41	Surface	4
	AGM–114 R–9E with TM (R11)	Missile	27.38	Surface	4
	AGM–114Q with TM	Missile	20.16	Surface	4
	CBU–105D	Bomb	108.6	HOB	8
	GBU–53/B (GTV)	Bomb	[a] 0.34	HOB/Surface	8
	GBU–39 SDB (GTV)	Bomb	[a] 0.39	Surface	4
	AGM–88C w/FTS	Missile	[a] 0.70	Surface	2
	AGM–88B w/FTS	Missile	[a] 0.70	Surface	2
	AGM–88F w/FTS	Missile	[a] 0.70	Surface	2
	AGM–88G w/FTS	Missile	[a] 0.70	Surface	2
	AGM–179 JAGM	Missile	27.47	Surface	4
	GBU–69	Bomb	6.88	Surface	2
	GBU–70	Bomb	6.88	Surface	1
	AGM–176	Missile	8.14	Surface	4
	GBU–54 KMU–572C/B	Bomb	193	Surface	1
	AIM–120C3	Missile	117.94	HOB/Surface	4
	AIM–120B	Missile	102.65	HOB	18
	AIM–9X Blk I	Missile	60.25	HOB	7
	AIM–9X Blk I	Missile	67.9	HOB/Surface	10
	AIM–9X Blk II	Missile	60.25	HOB	24
	AIM–9M–9	Missile	60.55	HOB	90
	Inert Munitions				
	ADM–160B MALD	Missile	N/A	N/A	4
	ADM–160C MALD–J	Missile	N/A	N/A	4
	ADM–160C–1 MALD–J	Missile	N/A	N/A	4
	ADM–160D MALD–J	Missile	N/A	N/A	4
	GBU–10	Bomb	N/A	N/A	8
	GBU–12	Bomb	N/A	N/A	32
	GBU–49	Bomb	N/A	N/A	16
	GBU–24/B (84)	Bomb	N/A	N/A	16
	GBU–24A/B (109)	Bomb	N/A	N/A	2
	GBU–31B(v)1	Bomb	N/A	N/A	16

TABLE 1—SUMMARY OF PROPOSED MUNITIONS FOR MISSIONS IN THE EGTTR—Continued

User group	Type	Category	Net explosive weight	Destination scenario	Annual quantity
	GBU–31C(v)1	Bomb	N/A	N/A	16
	GBU–31B(v)3	Bomb	N/A	N/A	2
	GBU–31C(v)3	Bomb	N/A	N/A	2
	GBU–32C	Bomb	N/A	N/A	8
	GBU–38B	Bomb	N/A	N/A	4
	GBU–38C w/BDU–50 (No TM)	Bomb	N/A	N/A	4
	GBU–38C	Bomb	N/A	N/A	10
	GBU–54 KMU–572C/B	Bomb	N/A	N/A	4
	GBU–54 KMU–572B/B	Bomb	N/A	N/A	4
	GBU–69	Bomb	N/A	N/A	2
	BDU–56A/B	Bomb	N/A	N/A	4
	PGU–27 (20 mm)	Gun Ammunition	0.09	N/A	16,000
	PGU–15 (30 mm)	Gun Ammunition	N/A	N/A	16,000
	PGU–25 (25 mm)	Gun Ammunition	N/A	N/A	16,000
	ALE–50	Decoy System	N/A	N/A	6
	AIM–260A JATM	Missile	N/A	N/A	4
	PGU–27 (20 mm)	Gun Ammunition	N/A	N/A	80,000
	PGU–23 (25 mm)	Gun Ammunition	N/A	N/A	6,000
	MJU–7A/B Flare	Flare	N/A	N/A	1,800
	R–188 Chaff	Chaff	N/A	N/A	6,000
	R–196 (T–1) Chaff	Chaff	N/A	N/A	1,500
	Live Munitions				
AFSOC	105 mm HE (FU)	Gun Ammunition	4.7	Surface	750
	105 mm HE (TR)	Gun Ammunition	0.35	Surface	1,350
	30 mm HE	Gun Ammunition	0.1	Surface	35,000
	AGM–176 Griffin	Missile	4.58	HOB	100
	AGM–114R9E/R2 Hellfire	Missile	20.0	HOB	70
	2.75-inch Rocket (including APKWS)	Rocket	2.3	Surface	400
	GBU–12	Bomb	198.0/298.0	Surface	30
	Mk-81 (GP 250 lb)	Bomb	151.0	Surface	30
	GBU–39 (SDB I)	Bomb	37.0	HOB	30
	GBU–69	Bomb	36.0	HOB	40
	Inert Munitions				
	.50 caliber	Gun Ammunition	N/A	N/A	30,000
	GBU–12	Bomb	N/A	N/A	30
	MkK–81 (GP 250 lb)	Bomb	N/A	N/A	30
	BDU–50	Bomb	N/A	N/A	30
	BDU–33	Bomb	N/A	N/A	50
	Live Munitions				
96 OG	AGM–176 Griffin	Missile	4.58	Surface	10
	AGM–114 Hellfire	Missile	20.0	Surface	10
	GBU–39 (SDB I)	Bomb	37.0	Surface	6
	GBU–39 (LSDB)	Bomb	37.0	Surface	10
	105 mm HE (FU)	Gun Ammunition	4.7	Surface	60
	105 mm HE (TR)	Gun Ammunition	0.35	Surface	60
	30 mm HE	Gun Ammunition	0.1	Surface	99
	AGM–114R Hellfire	Missile	20.0	Surface	36
	AIM–9X	Missile	7.9	HOB	1
	GBU–39B/B LSDB	Bomb	37.0	Surface	2
	AGM–158 (JASSM)	Missile	240.26	Surface	2
	GBU–39 (SDB I)	Bomb	37.0	HOB/Surface	2
	GBU–39 (SDB I) Simultaneous Launch[b]	Bomb	74.0	HOB/Surface	2
	GBU–53 (SDB II)	Bomb	22.84	HOB/Surface	2
	AGM–114L Longbow	Missile	35.95	HOB	6
	AGM–179A JAGM	Missile	27.47	HOB	8
	Spike NLOS	Missile	34.08	Surface	3
	PAC–2	Missile	[c]145.0	N/A (drone target)	2
	PAC–3	Missile	[c]145.0	N/A (drone target)	2
	HACM	Hypersonic Weapon	[e]350	Surface	1
	PrSM	Hypersonic Weapon	[e]46	HOB	2
	SINKEX	Vessel Sinking Exercise	Not Available	Not Available	2
	GBU–10, 24, or 31 (QUICKSINK)	Bomb	945	Subsurface	4 to 8
	2,000 lb bomb with JDAM kit	Bomb	945 or less	HOB	2
	Inert GBU–39 (LSDB) with live fuze	Bomb	0.4	HOB/Surface	4
	Inert GBU–53 (SDB II) with live fuze	Bomb	0.4	HOB/Surface	4
	Inert Munitions				
	GBU–39B/B LSDB	Bomb	N/A	N/A	2
	GBU–49	Bomb	N/A	N/A	10
	GBU–48	Bomb	N/A	N/A	1
	AGM–158 (JASSM)	Missile	N/A	N/A	4
	GBU–39 (SDB I)	Bomb	N/A	N/A	4
	GBU–39 (SDB I) Simultaneous Launch	Bomb	N/A	N/A	4
	GBU–53 (SDB II)	Bomb	N/A	N/A	1

TABLE 1—SUMMARY OF PROPOSED MUNITIONS FOR MISSIONS IN THE EGTTR—Continued

User group	Type	Category	Net explosive weight	Destination scenario	Annual quantity
	AIM–260 JATM—Inert	Missile	N/A	N/A	6
	AIM–9X—Inert	Missile	N/A	N/A	10
	AIM–120 AMRAAM—Inert	Missile	N/A	N/A	15
	PrSM—Inert	Hypersonic Weapon	N/A	N/A	2
	SiAW AARGM–ER	Missile	N/A	N/A	7
	Multipurpose Booster	Booster	N/A	N/A	1
	JDAM ER	Bomb	N/A	N/A	3
	Navy HAAWC	Torpedo	N/A	N/A	2
	Mk-84 (GP 2,000 lb) [c]	Bomb	N/A	N/A	9
NAVSCOLEOD	Underwater Mine Charge	Charge	[d] 20	Subsurface	32
	Floating Mine Charge	Charge	[d] 5	Surface	80

[a] Warhead replaced by FTS/TM. Identified 1 NEW is for the FTS.
[b] NEW is doubled for simultaneous launch.
[c] Assumed for impact analysis.
[d] Estimated.
[e] NEW at impact/detonation 53 WEG = 53rd Weapons Evaluation Group; 780 TS = 780th Test Squadron; 96 OG = 96th Operations Group; AARGMER = Advanced Anti-Radiation Guided Missile—Extended Range; ABMS = Advanced Battle Management System; ADM = American Decoy Missile; AFSOC = Air Force Special Operations Command; AGM = Air-to-Ground Missile; AIM = Air Intercept Missile; ALE = Ammunition Loading Equipment; AMRAAM = Advanced Medium-Range Air-to-Air Missile; APKWS = Advanced Precision Kill Weapon System; BDU = Bomb Dummy Unit; C–RAM = Counter, Rocket, Artillery, and Mortar; CBU = Cluster Bomb Unit; EGTTR = Eglin Gulf Test and Training Range; ER = Extended Range; FTS = Flight Termination System; FU = Full Up; GBU = Guided Bomb Unit; GP = General Purpose; GTV = Guided Test Vehicle; HAAWC = High Altitude Anti-Submarine Warfare Weapon Capability; HACM = Hypersonic Attack Cruise Missile; HE = High Explosive; HOB = height of burst; JDAM = Joint Direct Attack Munition; JAGM = Joint Air-to-Ground Missile; JASSM = Joint Air-to-Surface Standoff Missile; JATM = Joint Advanced Tactical Missile; LAICRM = Large Aircraft Infrared Counter Measure; lb = pound(s); LSDB = Laser Small-Diameter Bomb; MALD = Miniature Air-Launched Decoy; MJU = Mobile Jettison Unit; Mk = Mark; mm = millimeter(s); N/A = not applicable; NLOS = Non-Line-of-Sight; NAVSCOLEOD = Naval School Explosive Ordnance Disposal; PAC = Patriot Advanced Capability; PGU = Projectile Gun Unit; SDB = Small-Diameter Bomb; SiAW = Stand-in Attack Weapon; SRI = Santa Rosa Island; TA = Test Area; TBD = to be determined; TM = telemetry; TR = Training Round.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the USAF's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the USAF, if appropriate.

Dated: July 12, 2022.

Catherine Marzin,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–15208 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID: 0648–XC152]

Research Track Assessment for American Plaice

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

ACTION: Notice of public meeting.

SUMMARY: NMFS will convene the Research Track Assessment Peer Review Meeting for the purpose of reviewing American plaice. The Research Track Assessment Peer Review is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers for fish stocks in the offshore U.S. waters of the northwest Atlantic. Assessments are prepared by the research track working group and reviewed by an independent panel of stock assessment experts from the Center of Independent Experts (CIE). The public is invited to attend the presentations and discussions between the review panel and the scientists who have participated in the stock assessment process.

DATES: The public portion of the Research Track Assessment Peer Review Meeting will be held from July 18, 2022–July 21, 2022. The meeting will conclude on July 21, 2022 at 12 p.m. Eastern Standard Time. Please see **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: The meeting will be held via WebEx.

Link: https://noaanmfs-meets.webex.com/noaanmfs-meets/j.php?MTID=mf97d5121d96d26f36e88243f0dd9e013.

Meeting number (access code): 2763 669 5649.

Meeting password: mP4vVXESd74.

FOR FURTHER INFORMATION CONTACT: Michele Traver, phone: 508–257–1642; email: *michele.traver@noaa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please visit the Northeast Fisheries Science Center (NEFSC) website at *https://www.fisheries.noaa.gov/new-england-mid-atlantic/population-assessments/fishery-stock-assessments-new-england-and-mid-atlantic.* For additional information about research track stock assessments, please visit the NEFSC web page at *https://www.fisheries.noaa.gov/new-england-mid-atlantic/population-assessments/research-track-stock-assessments.*

Daily Meeting Agenda—Research Track Peer Review Meeting

The agenda is subject to change; all times are approximate and may be changed at the discretion of the Peer Review Chair.

MONDAY, JULY 18, 2022

Time	Topic	Presenter(s)	Notes
7 a.m.–7:15 a.m	Welcome/Logistics	Michele Traver, Assessment Process Lead.	
	Introductions/Agenda/Conduct of Meeting.	Russ Brown, PopDy Branch Chief Yong Chen, Panel Chair.	
7:15 a.m.–7:45 a.m	Introduction and Overview	Steve Cadrin.	
7:45 a.m.–8:45 a.m	Term of Reference (TOR) #1	Lisa Kerr and Jamie Behan	Environmental Effects.

MONDAY, JULY 18, 2022—Continued

Time	Topic	Presenter(s)	Notes
8:45 a.m.–9 a.m	Break.		
9 a.m.–11a.m	TOR #2	Steve Cadrin	Fishery Data.
11 a.m.–11:15 a.m	Break.		
11:15 a.m.–12:15 p.m	TOR #3	Paul Nitschke and Alex Hansell	Survey Data.
12:15 p.m.–12:30 p.m	Discussion/Summary	Review Panel.	
12:30 p.m.–12:45 p.m	Public Comment	Public.	
12:45 p.m	Adjourn.		

TUESDAY, JULY 19, 2022

Time	Topic	Presenter(s)	Notes
7 a.m.–7:05 a.m	Welcome/Logistics	Michele Traver, Assessment Process Lead. Yong Chen, Panel Chair.	
7:05 a.m.–8 a.m	TOR #3 cont	Paul Nitschke and Alex Hansell	Survey Data.
8 a.m.–9:30 a.m	TOR #4	Amanda Hart, Tim Miller, Steve Cadrin, Dan Hennen, and Alex Hansell.	Assessment Models.
9:30 a.m.–9:45 a.m	Break.		
9:45 a.m.–11:45 a.m	TOR #4 cont	Amanda Hart, Tim Miller, Steve Cadrin, Dan Hennen, and Alex Hansell.	Assessment Models.
11:45 a.m.–12 p.m	Break.		
12 p.m.–12:30 p.m	TOR #4 cont	Amanda Hart, Tim Miller, Steve Cadrin, Dan Hennen, and Alex Hansell.	Assessment Models.
12:30 p.m.–12:45 p.m	Discussion/Summary	Review Panel.	
12:45 p.m.–1 p.m	Public Comment	Public.	
1 p.m	Adjourn.		

WEDNESDAY, JULY 20, 2022

Time	Topic	Presenter(s)	Notes
7 a.m.–7:05 a.m	Welcome/Logistics	Michele Traver, Assessment Process Lead. Yong Chen, Panel Chair.	
7:05 a.m.–8 a.m	TORs #5 and #6	Steve Cadrin, Paul Nitschke and Jamie Cournane.	Reference Points Projections.
8 a.m.–9 a.m	TOR #7	Steve Cadrin	Alternative Assessment Approach.
9 a.m.–9:15 a.m	Break.		
9:15 a.m.–10:45 a.m	TOR #8 and Near Term Plans	Steve Cadrin	Research Recommendations.
10:45 a.m.–11 a.m	Break.		
11 a.m.–11:15 a.m	Discussion/Summary	Review Panel.	
11:15 a.m.–11:30 a.m	Public Comment	Public.	
11:30 a.m.–12 p.m	Key Points/Follow ups/Panel Wrap Ups.	Review Panel.	
12 p.m	Adjourn.		

THURSDAY, JULY 21, 2022

Time	Topic	Presenter(s)	Notes
7 a.m.–12 p.m	Report Writing	Review Panel.	

The meeting is open to the public; however, during the 'Report Writing' session on Thursday, July 21st, the public should not engage in discussion with the Peer Review Panel.

Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to Michele Traver, via email.

Dated: July 13, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–15269 Filed 7–15–22; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, July 20, 2022; 10:00 a.m.

PLACE: The meeting will be held remotely.

STATUS: Commission Meeting—Closed to the Public.

MATTER TO BE CONSIDERED: *Briefing Matter:* Commission staff will brief the Commission on a compliance matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: July 13, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–15327 Filed 7–14–22; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee for the Prevention of Sexual Misconduct; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee for the Prevention of Sexual Misconduct (DAC–PSM) will take place.

DATES: DAC–PSM will hold an open to the public meeting—Monday, August 22, 2022 from 12:30 p.m. to 4:15 p.m. (EST).

ADDRESSES: The meeting will be held by videoconference. Participant access information will be provided after registering. (Pre-meeting registration is required. See guidance in **SUPPLEMENTARY INFORMATION,** ''Meeting Accessibility'').

FOR FURTHER INFORMATION CONTACT: Dr. Suzanne Holroyd, (571) 372–2652 (voice), *osd.mc-alex.ousd-p-r.mbx.DAC-PSM@mail.mil* (email). Website: *www.sapr.mil/DAC–PSM.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Availability of Materials for the Meeting: Additional information, including the agenda or any updates to the agenda, is available on the DAC–PSM website (*www.sapr.mil/DAC-PSM*). Materials presented in the meeting may also be obtained on the DAC–PSM website. *Purpose of the Meeting:* The purpose of the meeting is for the DAC–PSM to receive briefings and have discussions on topics related to the prevention of sexual misconduct within the Armed Forces of the United States. *Agenda:* Monday, August 22, 2022 from 12:30 p.m. to 4:15 p.m. (EST)—Welcome, Public Comment Review, Briefings, and DAC–PSM Discussions.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public from 12:30 p.m. to 4:15 p.m. (EST) on August 22, 2022. The meeting will be held by videoconference. The number of participants is limited and is on a first-come basis. All members of the public who wish to participate must register by contacting DAC–PSM at *osd.mc-alex.ousd-p-r.mbx.DAC-PSM@mail.mil* or by contacting Dr. Suzanne Holroyd at (571) 372–2652 no later than Friday, August 12, 2022 (by 5:00 p.m. EST). Once registered, the web address and/or audio number will be provided.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Dr. Suzanne Holroyd at *osd.mc-alex.ousd-p-r.mbx.DAC-PSM@mail.mil* or (571) 372–2652 no later than Friday, August 12, 2022 (by 5:00 p.m. EST) so that appropriate arrangements can be made.

Written Statements: Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the FACA, interested persons may submit a written statement to the DAC–PSM. Individuals submitting a written statement must submit their statement no later than 5:00 p.m. EST, Friday, August 12, 2022, to Dr. Suzanne Holroyd at (571) 372–2652 (voice) or to *osd.mc-alex.ousd-p-r.mbx.DAC-PSM@mail.mil* (email). If a statement is not received by Friday, August 12, 2022, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DAC–PSM during the August 22, 2022 meeting. The Designated Federal Officer will review all timely submissions with the DAC–PSM Chair and ensure they are provided to the members of the DAC–PSM.

Dated: July 12, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–15242 Filed 7–15–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1394–081]

Southern California Edison Company; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Relicensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1394–081.

c. *Date Filed:* June 29, 2022.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Bishop Creek Hydroelectric Project (project).

f. *Location:* The existing project is on Bishop Creek in Inyo County, California. The project occupies approximately 758 acres of federal land administered by the U.S. Forest Service and approximately 51 acres of federal land administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Matthew Woodhall, Project Lead, Regulatory Support Services, Southern California Edison Company, 1515 Walnut Grove Ave., Rosemead, CA 91770, (626) 302–9596, or *matthew.woodhall@sce.com.*

i. *FERC Contact:* Kelly Wolcott, (202) 502–6480 or *kelly.wolcott@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The existing Bishop Creek Hydroelectric Project generally consists of 5 powerhouses (Powerhouses 2 through 6) on the Middle Fork of Bishop Creek; 3 primary storage reservoirs (South Lake Reservoir, Lake Sabrina, and Longley Lake); 13 dams or diversions and flowlines that collect water from Green Creek (a tributary to Bishop Creek), Birch Creek, and McGee Creek; and appurtenant facilities. The project has an authorized capacity of approximately 29 megawatts. The estimated average annual generation of the project is 129,550 megawatt-hours.

The project is operated as a storage-release facility and does not propose any changes to operation. Project operations are dictated by the current license, as well as a 1922 water rights ruling (Chandler Decree) and a 1933 Sales Agreement with the Los Angeles Department of Water and Power. The

Bishop Creek Project begins diverting or impounding water at five points: Green Creek at Bluff Lake, South Fork Bishop Creek at South Lake, Middle Fork Bishop Creek at Lake Sabrina, McGee Creek at Longley Lake, and Birch Creek at Birch-McGee diversion. Plant No. 2 receives water originating from Longley Lake dam and the upper portions of the Birch Creek watershed. Longley Lake dam discharges water to McGee Creek, where it flows approximately 1 mile before being intercepted by the McGee Creek diversion. Water is then diverted into a series of pipelines and open channels and delivered to Birch Creek.

After entering Birch Creek, the water flows approximately 0.5 mile before being diverted again by the Birch-McGee diversion, where enters a pipe and descends over 1,100 feet in elevation before intercepting the penstock to Plant No. 2. A portion of the water flows down Bishop Creek while another portion is conveyed through a series of pipes and penstocks connecting Plants No. 2, through No. 6. Each powerhouse and intake controls the portion of water entering Bishop Creek and the portion directed into the pipe and penstock conveyances. After Plant No. 6, Bishop Creek flows to the community of Bishop and the Owens Valley. When Plant No. 6 is offline, there is an alternative take-off below Plant No. 5. The regulated reaches between Lake Sabrina and Intake No. 2 and those between South Lake and South Fork diversion experience similar flow fluctuations. The current license requires minimum flow releases into diverted reaches.

SCE proposes to modify resource plans and measures it has implemented under the current license, including: (1) water management; (2) the Stocking Plan; (3) the Wildlife Resource Management Plans; (4) the Botanical Resource Management Plan; and (5) the Historic Properties Management Plan. In addition, SCE proposes to develop and implement the following new plans: (1) a sediment management plan; (2) an invasive species management plan; and (3) a recreation resources management plan.

l. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's homepage (*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 (P–1394). For assistance, contact *FERCOnlineSupport@ferc.gov,* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

m. You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary).	July 2022.
Request Additional Information (if necessary).	August 2022.
Notice of Acceptance/Notice of Ready for Environmental Analysis.	September 2022.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	November 2022.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: July 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15259 Filed 7–15–22; 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 electric rate filings:

Docket Numbers: ER22–2347–000.

Applicants: American Electric Power Service Corporation, Ohio 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: AEP submits one amended Facilities Agreement re: ILDSA, SA No. 1336 to be effective 9/12/2022.

Filed Date: 7/12/22.

Accession Number: 20220712–5079.

Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2348–000.

Applicants: Tucson Electric Power Company.

Description: Compliance filing: Order No. 881 Compliance Filing to be effective 7/12/2025.

Filed Date: 7/12/22.

Accession Number: 20220712–5089.*Comment Date:* 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2349–000.

Applicants: UNS Electric, Inc.

Description: Compliance filing: Order No. 881 Compliance Filing to be effective 7/12/2025.

Filed Date: 7/12/22.

Accession Number: 20220712–5093.

Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2350–000.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Compliance Filing of Tariff Revisions re: Order No. 881 Transmission Line Ratings to be effective 12/31/9998.

Filed Date: 7/12/22.

Accession Number: 20220712–5098.

Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2351–000.

Applicants: Avista Corporation.

Description: Compliance filing: Avista Corp Order No. 881 Compliance Filing to be effective 7/13/2022.

Filed Date: 7/12/22.

Accession Number: 20220712–5103.

Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2352–000.

Applicants: Duke Energy Florida, LLC, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

Description: Compliance filing: Duke Energy Florida, LLC submits tariff filing per 35: Compliance Filing for Order No. 881 to be effective 7/12/2025.

Filed Date: 7/12/22.

Accession Number: 20220712–5107.

Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2353–000.

Applicants: Florida Power & Light Company.

Description: Compliance filing: FPL Order No. 881 Compliance Filing to be effective 9/11/2022.

Filed Date: 7/12/22.

Accession Number: 20220712–5111.*Comment Date:* 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2354–000.

Applicants: GridLiance High Plains LLC.

Description: Compliance filing: GHP Order 881 Compliance Filing to be effective 9/11/2022.

Filed Date: 7/12/22.

Accession Number: 20220712–5119.

Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2355–000.

Applicants: GridLiance Heartland LLC.

Description: Compliance filing: GLH Order 881 Compliance Filing to be effective 9/11/2022.

Filed Date: 7/12/22.
Accession Number: 20220712–5124.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2356–000.
Applicants: Public Service Company of Colorado.
Description: Compliance filing: 2022–07–12 Att S—Trans Line Ratings—Order No. 881 to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5132.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2357–000.
Applicants: ISO New England Inc., Eversource Energy Service Company (as agent), Cross-Sound Cable Company, LLC, New England Power Pool Participants Committee, The United Illuminating Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: Amendments to ISO–NE Tariff in Compliance with Order No. 881 to be effective 9/10/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5139.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2358–000.
Applicants: Versant Power.
Description: Compliance filing: Order No. 881 Compliance Filing for Versant Power, Maine Public District to be effective 7/12/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5160.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2359–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Order Nos. 881 and 881–A Compliance Filing to be effective 12/31/9998.
Filed Date: 7/12/22.
Accession Number: 20220712–5161.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2360–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Compliance filing: Compliance Filing to Order No. 881 to be effective 12/31/9998.
Filed Date: 7/12/22.
Accession Number: 20220712–5163.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2361–000.
Applicants: Puget Sound Energy, Inc.
Description: Compliance filing: Order No. 881 Compliance Filing to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5167.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2362–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2022–07–12 Compliance Filing—FERC Order No. 881 to be effective 12/31/9998.
Filed Date: 7/12/22.
Accession Number: 20220712–5170.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2363–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022–07–12_Compliance Filing on Order 881 Managing Transmission Line Ratings to be effective 7/11/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5175.
Comment Date: 5 p.m. ET 8/2/22.

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: July 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15256 Filed 7–15–22; 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 corporate filings:

Docket Numbers: EC22–87–000.
Applicants: Berkshire Hathaway Inc.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Berkshire Hathaway Inc.
Filed Date: 7/11/22.
Accession Number: 20220711–5234.
Comment Date: 5 p.m. ET 8/25/22.
Docket Numbers: EC22–88–000.
Applicants: Edwards Sanborn Storage I, LLC, Edwards Sanborn Storage II, LLC, ES 1A Group 2 Opco, LLC, ES 1A Group 3 Opco, LLC, Daylight I, LLC, Edwards Solar Line I, LLC, Sanborn Solar Line I, LLC, Axium ES Holdings LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Edwards Sanborn Storage I, LLC, et al.
Filed Date: 7/12/22.
Accession Number: 20220712–5127.
Comment Date: 5 p.m. ET 8/2/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–163–000.
Applicants: SR DeSoto I, LLC.
Description: SR DeSoto I, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/8/22.
Accession Number: 20220708–5270.
Comment Date: 5 p.m. ET 7/29/22.
Docket Numbers: EG22–164–000.
Applicants: SR Turkey Creek, LLC.
Description: SR Turkey Creek, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/8/22.
Accession Number: 20220708–5272.
Comment Date: 5 p.m. ET 7/29/22.
Docket Numbers: EG22–165–000.
Applicants: SR DeSoto I Lessee, LLC.
Description: SR DeSoto I Lessee, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/8/22.
Accession Number: 20220708–5276.
Comment Date: 5 p.m. ET 7/29/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–842–003.
Applicants: Energy Center Paxton LLC.
Description: Notice of Change in Status of Energy Center Paxton LLC.
Filed Date: 7/11/22.
Accession Number: 20220711–5231.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER21–326–001.
Applicants: Direct Energy Business Marketing, LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 7/12/22.
Accession Number: 20220712–5037.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–1698–002.
Applicants: EDF Spring Field WPC, LLC.
Description: Tariff Amendment: 2d Tariff Amendment and Request for Shortened Comment Period—EDF Spring Field to be effective 6/28/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5075.
Comment Date: 5 p.m. ET 8/2/22.

Docket Numbers: ER22–2333–000.
Applicants: AES Laurel Mountain, LLC.
Description: § 205(d) Rate Filing: AES Laurel Mountain, LLC Shared Facilities Agreement to be effective 7/12/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5173.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER22–2334–000.
Applicants: Laurel Mountain BESS, LLC.
Description: § 205(d) Rate Filing: Laurel Mountain BESS, LLC Shared Facilities Agreement to be effective 7/12/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5176.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER22–2335–000.
Applicants: Public Service Company of New Mexico.
Description: Compliance filing: PNM Compliance with Order No. 881 to be effective 7/12/2025.
Filed Date: 7/11/22.
Accession Number: 20220711–5185.
Comment Date: 5 p.m. ET 8/1/22.
Docket Numbers: ER22–2336–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–07–12_SA 3028 Ameren IL-Prairie Power 1st Rev Project#14–A Pleasant View to be effective 7/13/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5015.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2338–000.
Applicants: King Forest Industries, Inc.
Description: Notice of Cancellation of Market Based Rate Tariff of King Forest Industries, Inc.
Filed Date: 7/7/22.
Accession Number: 20220707–5226.
Comment Date: 5 p.m. ET 7/28/22.
Docket Numbers: ER22–2339–000.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Order No. 881 Compliance Filing to Implement Transmission Line Ratings to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5033.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2340–000.
Applicants: Basin Electric Power Cooperative.
Description: § 205(d) Rate Filing: Basin Electric Power Cooperative Order No. 881 Compliance Filing to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5035.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2341–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Compliance filing: Alabama Power Company submits tariff filing per 35: Order No. 881 Compliance Filing to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5048.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2342–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to Generator Deactivation Analyses Process and Timing to be effective 9/11/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5052.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2343–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Tariff Clean-Up Filing 20220601 to be effective 6/1/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5059.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2344–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Allow Storage Facilities to be Transmission Only Assets to be effective 12/31/9998.
Filed Date: 7/12/22.
Accession Number: 20220712–5067.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2345–000.
Applicants: NorthWestern Corporation.
Description: Compliance filing: Order No. 881 Compliance Filing Transmission Line Ratings to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5072.
Comment Date: 5 p.m. ET 8/2/22.
Docket Numbers: ER22–2346–000.
Applicants: El Paso Electric Company.
Description: Compliance filing: OATT Order No. 881 Compliance Filing—TOC and Attachment O to be effective 7/12/2025.
Filed Date: 7/12/22.
Accession Number: 20220712–5074.
Comment Date: 5 p.m. ET 8/2/22.

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: July 12, 2022..

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15257 Filed 7–15–22; 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: RP22–1050–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (SoCal July 2022) to be effective 7/12/2022.
Filed Date: 7/11/22.
Accession Number: 20220711–5149.
Comment Date: 5 p.m. ET 7/25/22.
Docket Numbers: RP22–1051–000.
Applicants: Southeast Supply Header, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Duke Energy Florida 840163 to be effective 9/6/2022.
Filed Date: 7/12/22.
Accession Number: 20220712–5025.
Comment Date: 5 p.m. ET 7/25/22.

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 by

clicking on the links or 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: July 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15261 Filed 7–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–479–000]

ETC Texas Pipeline, Ltd.; Notice of Petition for Declaratory Order

Take notice that on July 5, 2022, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, ETC Texas Pipeline, Ltd. (ETC Texas) filed a petition for declaratory order requesting the Commission issue an order stating that upon ETC Texas's acquisition of certain pipeline facilities in Bienville and Webster Parishes, Louisiana, from Enable Gas Transmission, LLC, the facilities will perform a gathering function and are not subject to the Commission's jurisdiction under section 7 of the Natural Gas Act, 15 U.S.C. 717b, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene, or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://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 tollfree, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on August 10, 2022.

Dated: July 11, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15260 Filed 7–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX22–7–000]

Pattern New Mexico Wind LLC; Salt River Project Agricultural Improvement and Power District; Notice of Filing

Take notice that on July 7, 2022, pursuant to sections 211 and 212 of the Federal Power Act,[1] and Part 36 of the Commission's implementing regulations,[2] Pattern New Mexico Wind LLC and Salt River Project Agricultural Improvement and Power Districtfiled (SRP) filed a joint application requesting that the Federal Energy Regulatory Commission (Commission) issue an order directing SRP to provide the transmission service set forth in the fourteen Long-Term Firm Point-to-Point Transmission Service Agreements included hereto in Attachment A.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on August 8, 2022.

Dated: July 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15258 Filed 7–15–22; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824j, 824k (2019).

[2] 18 CFR 36.1 (2022).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10015–01–R5]

Proposed CERCLA Administrative Settlement Agreement for Crest Rubber Superfund Site, Alliance, Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement and request for public comments.

SUMMARY: The Environmental Protection Agency (EPA) is giving notice of a proposed administrative settlement for recovery of past response costs concerning the Crest Rubber Superfund Site in Alliance, Ohio with Chemionics Corporation. The EPA invites written public comments on the Settlement for thirty (30) days following publication of this notice. The settlement requires the settling party to pay $355,000 to the Hazardous Substance Superfund.

DATES: Comments must be received on or before August 17, 2022.

ADDRESSES: The proposed settlement and related documents can be viewed at the Superfund Records Center (SRC–7J), United States Environmental Protection Agency, Region 5, 77 W Jackson Blvd., Chicago, IL 60604, (312) 886–4465 and on-line at *https://response.epa.gov/CrestRubberAlliance.*

You may send comments, referencing the Crest Rubber Superfund Site in Alliance, Ohio and identified by Docket ID No. V–W–22–C–006, to the following address: Milagros Bensing, Superfund & Emergency Management Division (SE–5J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Naeha Dixit, Office of Regional Counsel (C–14J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Naeha Dixit may be reached by telephone at (312) 353–5524 or via electronic mail at *Dixit.Naeha@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Crest Rubber Site in Alliance, Ohio with Chemionics Corporation. EPA completed a removal action at the Site that began on May 15, 2017. The Site is located in an industrial/commercial area and is approximately 3.6 acres in size. The settlement requires the settling party to pay $355,000 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a).

II. Opportunity To Comment

A. General Information

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the Settlement. The Agency will consider all comments received and may modify or withdraw its consent to the Settlement if comments received disclose facts or considerations which indicate that the Settlement is inappropriate, improper, or inadequate.

B. Where do I send my comments or view responses?

Your comments should be mailed to Cheryl McIntyre, Superfund & Emergency Management Division (SE–5J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Be sure to label the comments with the Docket Number at the top of this notice and/or the property name. The Agency's response to any comments received will be available for public inspection at the Superfund Records Center.

C. What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit ANY information you think or know is CBI to EPA through an agency website or via email. Clearly mark on your written comments all the information that you claim to be CBI. If you mail EPA your comments on a disk or CD–ROM (CD), mark the outside of the CD as CBI and then identify electronically within the CD the specific information that is claimed as CBI. In addition to one complete version of your comments that includes all the information claimed as CBI, you must submit for inclusion in the public docket a second copy of your comments that does not contain the information claimed as CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the subject of your comments by the docket number and the site name in the title of this notice or the **Federal Register** publication date and page number.
- Follow directions—the agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree with the terms of the Settlement; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the identified comment period deadline.

Dated: July 11, 2022.

Douglas Ballotti,

Director, Superfund & Emergency Management Division.

[FR Doc. 2022–15241 Filed 7–15–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket EPA–R02–OW–2022–0598; FRL 9850–02–R2]

Availability of Clean Water Act List Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: This notice announces EPA's addition of certain water quality limited waters to the 2018 New York list of impaired waters, pursuant to the Clean Water Act (CWA), and requests public comment. The CWA and EPA's implementing regulations require States to submit, and EPA to approve or disapprove, lists of waters for which technology-based and other controls are not stringent enough to attain or maintain State water quality standards and for which total maximum daily loads (TMDLs) must be established. States are required to establish a priority ranking for waters on the list and to identify waters targeted for TMDL development over the next two years.

DATES: Comments must be submitted to EPA on or before September 16, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R02–

OW–2022–0598, at *https://www.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 internet, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Gurdak at telephone (212) 637–3634 or by mail at Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007–1866.

SUPPLEMENTARY INFORMATION: New York submitted the 2018 New York CWA Section 303(d) list (New York 2018 303(d) list) to EPA in correspondence dated November 13th, 2020 (followed up by a correction on December 7th, 2020, and a supplement on February 10th, 2022). On March 10, 2022, EPA partially approved and partially disapproved the New York 2018 303(d) list. Specifically, EPA approved the New York 2018 303(d) list with respect to the 835 waterbody/pollutant combinations requiring TMDLs that New York included on the list and the State's priority ranking for these waterbody/pollutant combinations.

However, EPA disapproved the New York 2018 303(d) list because EPA determined that it does not include twenty-two (22) waterbody/pollutant combinations that meet CWA Section 303(d) listing requirements.

For a detailed explanation of EPA's partial approval/partial disapproval, please refer to EPA's Support Document (*https://www.epa.gov/tmdl/new-yorkimpaired-waters-list*). EPA is providing the public the opportunity to review its decision to add these 22 waterbody/pollutant combinations to the New York 2018 303(d) list.

EPA is disapproving the New York 2018 303(d) list because EPA has determined that New York did not include twenty-two (22) waterbody/pollutant combinations on the 2018 303(d) list that meet 303(d) listing requirements, including:

- 17 waterbody/pollutant combinations that New York improperly delisted because data and information indicate that an applicable water quality standard is not met, including:
  - 4 waterbody/pollutant combinations where the applicable water quality criterion for odors is not met
  - 9 waterbody/pollutant combinations where data and/or information indicate that the applicable water quality criterion/criteria for floatables is/are not met.
  - 2 waterbody/pollutant combinations where the applicable water quality criterion for dissolved oxygen is not met
  - 1 waterbody/pollutant combination where data and/or information indicate the presence of harmful algal blooms (HABs), which in turn, indicates that an applicable water quality standard is not met.
  - 1 waterbody/pollutant combination for an assessment unit under 6.4 acres where data and/or information indicate that the applicable water quality criterion for dissolved oxygen is not met.
- 5 waterbody/pollutant combinations that New York did not include on the State's 2016 and/or 2018 303(d) lists, including:
  - 1 waterbody/pollutant combination that EPA listed on the New York 2014 303(d) list where data and/or information indicate that the applicable narrative water quality criterion for nutrients is not met.
  - 3 waterbody/pollutant combinations where data and information indicate the presence of HABs, which in turn, indicates that an applicable water quality standard is not met. New York did not demonstrate that no pollutant is causing the impairment of this water, did not include this waterbody/pollutant combination on the 2018 303(d) list and inappropriately categorized this waterbody/pollutant combination.
  - 1 waterbody/pollutant combination where data and/or information indicate the presence of HABs, which in turn, indicates that an applicable water quality standard is not met. New York did not include this waterbody/pollutant combination on the 303(d) list or in any other category.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Javier Laureano,

Director, Water Division, Region II.

[FR Doc. 2022–15250 Filed 7–15–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1159; FR ID 96254]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 17, 2022.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called

''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–1159.

Title: Part 25—Satellite Communications; and Part 27—Miscellaneous Wireless Communication Services: 2.3 GHz Band.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 155 respondents and 5,761 responses.

Estimated Time per Response: 0.5–40 hours.

Frequency of Response: Recordkeeping requirement, Third Party Disclosure, and On occasion and Quarterly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is 47 U.S.C. 154, 301, 302(a), 303, 309, 332, 336, and 337 unless otherwise noted.

Total Annual Burden: 24,065 hours.

Annual Cost Burden: $370,250.

Needs and Uses: The information filed by Wireless Communications Service (WCS) licensees in support of their construction notifications will be used to determine whether licensees have complied with the Commission's performance benchmarks. Further, the information collected by licensees in support of their coordination obligations will help avoid harmful interference to Satellite Digital Audio Radio Service (SDARS), Aeronautical Mobile Telemetry (AMT) and Deep Space Network (DSN) operations in other spectrum bands.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–15280 Filed 7–15–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request; OMB No. 3064–0001; –0178

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Agency information collection activities: submission for OMB Review; comment request.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the request to renew the existing information collections described below (OMB Control No. 3064–0001 and –0178). The notice of the proposed renewal for these information collections was previously published in the **Federal Register** on April 27, 2022, allowing for a 60-day comment period.

DATES: Comments must be submitted on or before August 17, 2022.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/index.html.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. *Title:* Interagency Charter and Federal Deposit Insurance Application.

OMB Number: 3064–0001.

Form Number: 6200–05.

Affected Public: Banks or Savings Associations wishing to become FDIC insured depository institutions.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0001]

Information collection description	Type of burden (obligation to respond)	Frequency of response	Number of respondents	Number of responses per respondent	Hours per response	Annual burden (hours)
Interagency Charter and Federal Deposit Insurance Application.	Reporting (Mandatory).	On Occasion	20	1	125	2,500

Source: FDIC.

General Description of Collection: The Federal Deposit Insurance Act requires financial institutions to apply to the FDIC to obtain deposit insurance. This collection provides FDIC with the information needed to evaluate the applications.

There is no change in the method or substance of the collection. The decrease in burden hours is the result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

2. *Title:* Market Risk Capital Requirements.

OMB Number: 3064–0178.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Information collection description	Type of burden	Frequency of response	Estimated number of respondents	Estimated number of responses per respondent	Estimated time per response (hours)	Estimated annual burden (hours)
Identification of Trading Positions (IC–1)	Recordkeeping	Annual	1	1	40	40
Trading and Hedging Strategies (IC–2)	Recordkeeping	Annual	1	1	16	16
Active Management of Covered Positions (IC–3)	Recordkeeping	Annual	1	1	16	16
Prior Written Approval to Use Internal Models (IC–4)	Reporting	Annual	1	1	8	8
Documentation of Internal Models and Other Activities (IC–5)	Recordkeeping	Annual	1	1	24	24
Prior Approval for Certain Capital Standards (IC–6)	Reporting	Annual	1	1	8	8
Demonstrate Appropriateness of Proxies (IC–7)	Recordkeeping	Annual	1	1	8	8
Retention of Subportfolio Information (IC–8)	Recordkeeping	Annual	1	1	24	24
Stressed VaR-based Measure Quantitative Requirements (IC–9).	Recordkeeping & Reporting.	Semiannual	1	4	40	160
Incremental Risk Modeling Prior Approval (IC–10)	Reporting	Quarterly	1	4	480	1,920
Comprehensive Risk Measurement Prior Approval (IC–11)	Reporting	Quarterly	1	4	480	1,920
Recordkeeping for Stress Tests (IC–12)	Recordkeeping	Quarterly	1	4	8	32
Demonstrate Understanding of Securitization Positions and Performance (IC–13).	Recordkeeping	Periodically	1	100	2	200
Disclosure Policy (IC–14)	Recordkeeping	Annual	1	1	40	40
Quantitative Market Risk Disclosures (IC–15)	Third-Party Disclosure.	Quarterly	1	4	8	32
Qualitative Market Risk Disclosures (IC–16)	Third-Party Disclosure.	Annual	1	1	12	12
Total Annual Burden Hours						4,460

General Description of Collection: The FDIC's market risk capital rules (12 CFR part 324, subpart F) enhance risk sensitivity, increase transparency through enhanced disclosures and include requirements for the public disclosure of certain qualitative and quantitative information about the market risk of state nonmember banks and state savings associations (covered FDIC-supervised institutions). The market risk rule applies only if a bank holding company or bank has aggregated trading assets and trading liabilities equal to 10 percent or more of quarter-end total assets or $1 billion or more (covered FDIC-supervised institutions). Currently, only one FDIC regulated entity meets the criteria of the information collection requirements that are located at 12 CFR 324.203 through 324.212. The collection of information is necessary to ensure capital adequacy appropriate for the level of market risk. Section 324.203(a)(1) requires covered FDIC-supervised institutions to have clearly defined policies and procedures for determining which trading assets and trading liabilities are trading positions and specifies the factors a covered FDIC-supervised institution must take into account in drafting those policies and procedures. Section 324.203(a)(2) requires covered FDIC supervised institutions to have clearly defined trading and hedging strategies for trading positions that are approved by senior management and specifies what the strategies must articulate. Section 324.203(b)(1) requires covered FDIC-supervised institutions to have clearly defined policies and procedures for actively managing all covered positions and specifies the minimum requirements for those policies and procedures. Sections 324.203(c)(4) through 324.203(c)(10) require the annual review of internal models and specify certain requirements for those models. Section 324.203(d) requires the internal audit group of a covered FDIC supervised institution to prepare an annual report to the board of directors on the effectiveness of controls supporting the market risk measurement systems. Section 324.204(b) requires covered FDIC-supervised institutions to conduct quarterly back testing. Section 324.205(a)(5) requires institutions to demonstrate to the FDIC the appropriateness of proxies used to capture risks within value-at-risk models. Section 324.205(c) requires institutions to develop, retain, and make available to the FDIC value-at-risk and profit and loss information on sub

portfolios for two years. Section 324.206(b)(3) requires covered FDIC supervised institutions to have policies and procedures that describe how they determine the period of significant financial stress used to calculate the institution's stressed value-at-risk models and to obtain prior FDIC approval for any material changes to these policies and procedures. Section 324.207(b)(1) details requirements applicable to a covered FDIC-supervised institution when the covered FDIC-supervised institution uses internal models to measure the specific risk of certain covered positions. Section 324.208 requires covered FDIC-supervised institutions to obtain prior written FDIC approval for including equity positions in its incremental risk modeling. Section 324.209(a) requires prior FDIC approval for the use of a comprehensive risk measure. Section 324.209(c)(2) requires covered FDIC-supervised institutions to retain and report the results of supervisory stress testing. Section 324.210(f)(2)(i) requires covered FDIC supervised institutions to document an internal analysis of the risk characteristics of each securitization position in order to demonstrate an understanding of the position. Section 324.212 applies to certain covered FDIC supervised institutions that are not subsidiaries of bank holding companies, and requires quarterly quantitative disclosures, annual qualitative disclosures, and a formal disclosure policy approved by the board of directors that addresses the approach for determining the market risk disclosures it makes.

Relative to the 2019 information collection request (ICR), the set of information collections (ICs) included in the above burden estimates has been revised. A detailed review of the 18 ICs included in the 2019 ICR showed that seven of the ICs appear inconsistent with the requirements in subpart F or potentially repeat other identified PRA requirements in subpart F. Those seven ICs have been deleted from the set of ICs retained in this renewal.[1] Additionally, a detailed review of subpart F found five provisions that require covered institutions to conduct third-party disclosure, recordkeeping, or reporting and were not included in the 2019 ICR. The PRA requirements of these five provisions have been introduced as ICs in the burden estimate above.[2] Lastly, a review of the 2019 Supporting Statement for the Federal Reserve's approved information collection (OMB No. 7100–0314) for its Market Risk Capital Requirements regulations (12 CFR 217 subpart F) shows that the OMB No. 7100–0314 list of ICs corresponds with the modified set of ICs in this renewal, and would therefore promote consistency among how the banking agencies estimate the PRA burden for the market risk capital rule.[3]

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on July 12, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–15216 Filed 7–15–22; 8:45 am]

BILLING CODE 6714–01–P

[1] The ICs deleted from the 2019 ICR are: IC 4–Review of internal models; IC 5–Internal audit report; IC 6–Backtesting adjustments to risk-based capital ratio calculations; IC 10–Modeled specific risk; IC 13–Requirements of stress testing; IC 14–Securitization position; IC 17–Quantitative disclosures for each portfolio of covered positions (IC numbers refer to those in the 2019 ICR memo).

[2] The newly-introduced ICs are: IC 4–Prior approval to use internal models (324.203(c)(1)); IC 5–Documentation of internal models and other activities (324.203(f)); IC 6–Prior approval for certain capital standards (324.204(a)(2)(vi)(B)); IC 12–Recordkeeping for stress tests (324.209(c)(2)); and IC 13–Demonstrate understanding of securitization positions (324.210(f)(1)).

[3] *See https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=7100-0314.*

FEDERAL MARITIME COMMISSION

Sunshine Act Meetings

TIME AND DATE: July 27, 2022; 10:00 a.m.

PLACE: This meeting will be held at the Federal Maritime Commission at the address below and also streamed live at *www.fmc.gov.*

800 N Capitol Street NW, 1st Floor Hearing Room, Washington, DC

STATUS: Part of the meeting will be open to the public: held in-person with a limited capacity for public attendants and also available to view streamed live, accessible from *www.fmc.gov.* The rest of the meeting will be closed to the public.

Requests to register to attend the meeting in-person should be submitted to *secretary@fmc.gov* and contain ''July 27, 2022, Commission Meeting'' in the subject line. Interested members of the public have until 5:00 p.m. (Eastern) Monday, July 25, 2022, to register to attend in-person. Seating for members of the public is limited and will be available on a first-come, first-served basis for those who have registered in advance. Health and safety protocols for meeting attendees will depend on the COVID–19 Community Transmission Level for Washington DC as determined on Friday, July 22, 2022. Pre-registered attendees will be notified of the required health and safety protocols before the meeting and no later than Tuesday, July 26, 2022.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Staff Briefing on Ocean Shipping Reform Act of 2022

Portions Closed to the Public

2. Staff Briefing on Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space
3. Staff Update on Ocean Carrier Practices with Respect to Congestion or Related Surcharges
4. Staff Briefing on Enforcement Process and Pending Matters

CONTACT PERSON FOR MORE INFORMATION: William Cody, Secretary, (202) 523–5725.

William Cody,

Secretary.

[FR Doc. 2022–15400 Filed 7–14–22; 4:15 pm]

BILLING CODE 6730–02–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Hearing Health and Safety

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: Beginning on January 3, 3022, the Federal Mine Safety and Health Review Commission (the ''Commission'' or ''FMSHRC'') resumed in-person hearings in the manner described in an order dated December 3, 2021, appearing in the **Federal Register** on December 9, 2021, and posted on the Commission's website (*www.fmshrc.gov*). On July 11, 2022, Commission Chief Administrative Law Judge Glynn F. Voisin issued an order, which modifies the December 3 order. The July 11 order is posted on the Commission's website and contains

hyperlinks not included within this notice.

DATES: *Applicable:* July 11, 2022.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935.

SUPPLEMENTARY INFORMATION: Commission Administrative Law Judges are committed to a high standard to protect the health and safety of all persons who may appear before them, during the Coronavirus 2019 (COVID–19) pandemic, while continuing the agency's mission. By order dated December 3, 2021, which was published in the **Federal Register** (86 FR 70126 (Dec. 9, 2021) and posted on the Commission's website, the Commission resumed in-person hearings as of January 3, 2022. On July 11, 2022, the Chief Judge issued an order modifying the December 3 order. The contents of the July 11 order are set forth in this notice, and for the duration of the July 11 order, all hearings are subject to its terms.

Commission Judges may, at their sole discretion, hold remote hearings (*e.g.,* via Zoom) and in-person hearings. Judges also have the discretion to hold a hybrid hearing, that includes both in-person and video participation. Commission Judges shall exercise this discretion within uniform parameters as set forth herein. Each Judge shall determine (1) when to use remote hearings in lieu of in-person hearings and (2) specific safety procedures to be used at a hybrid or in-person hearing.

In determining the type of hearing, Judges will consider current guidance and safety factors on a case-by-case basis. Judges will ensure all parties appearing pro se who are required to participate in a remote hearing have access to equipment, an internet connection, and other appropriate technology. Prior to conducting an in-person hearing, Judges will schedule a conference call with the attorneys and representatives of each of the parties to discuss, among other things, safety considerations for the in-person hearing. Persons who are not comfortable with travel or appearing in person, may request to attend the hearing via remote access (*e.g.,* via Zoom). Judges may discuss the agency's workplace safety plan that outlines travel guidelines, protocols, and safety measures in conjunction with the CDC Community Levels.

The Judge will set a hearing location after considering CDC Community Levels using the CDC COVID Data Tracker and the safety and health rules currently in place by the state and local public health entities. Where community levels are HIGH, Judges are discouraged from setting in-person hearings. If in-person participants are traveling to attend a hearing, the community levels of where they are traveling from need to be taken into account as well. In choosing a courtroom, the Judge will take into consideration the rules and requirements of the court or hearing facility, as well as all applicable federal, state, and local regulations and guidelines. If the hearing is to be a hybrid hearing, the Judge will also consider the availability of internet and technology needs in the courtroom.

During the prehearing conference, the Judge will consider federal, state, local and courtroom requirements and inform the parties of such requirements. The requirements apply to all persons attending the in-person hearing. The discussion will also address who may enter the courtroom, when, and what safety measures, such as masks and physical distancing, must be implemented. No person may enter the courtroom, or the witness room without the permission of the Judge.

In addition to any federal, state, local and facility safety and health rules, all persons attending in-person hearings are also subject to the below requirements:

- *FMSHRC employees:*
  - All FMSHRC employees must adhere to the workplace safety plan and CDC guidance on physical distancing, mask wearing, vaccination attestation, and testing as well as quarantine, isolation, and official travel requirements. The employee vaccination requirement in Executive Order 14043 and the contractor vaccination requirement in Executive Order 14042 are the subject of an injunction issued by a Federal court. In accordance with OMB Guidance, and pending further notice, FMSHRC will take no action to enforce the vaccination requirements in those executive orders. The Office of the Chief Administrative Law Judge will continue to monitor developments on this issue and will comply with current vaccination policies.
- *Visitors and Contractors:*
  - Visitors are defined as federal employees from other agencies such as the Department of Labor, spectators, and press. Contractors, for purposes of this order, are defined as individuals who have been contracted by FMSHRC to attend an in-person hearing for a specific purpose (*e.g.,* a court reporter creating a transcript).
  - Visitors and contractors must attest to their vaccination status using the Certificate of Vaccination Form when Community Levels are MEDIUM or HIGH. The vaccination attestation form can be found on the Safer Federal Workforce website at *https://www.saferfederalworkforce.gov/downloads/CertificationVaccinationPRAv7.pdf.* Visitors and contractors who are considered not fully vaccinated (as defined by the CDC) shall show proof of a negative COVID–19 test result from a Food and Drug Administration authorized test taken within three days prior to entry to the in-person hearing when Community Levels are MEDIUM or HIGH. The Judge shall neither collect documentation to verify their vaccination attestation nor collect documentation to verify COVID–19 test results. Additionally, all visitors and contractors must adhere to the agency's workplace safety plan and CDC guidance on physical distancing and mask wearing.
- *Non-government Parties, Representatives and Witnesses:*
  - Persons who are not visitors or contractors as defined above, and who are parties, representatives of parties, or witnesses do not need to attest to their vaccination status to attend an in-person FMSHRC hearing, and Judges shall not inquire into their vaccination status. However, they must adhere to the agency's workplace safety plan and CDC guidance on physical distancing and mask wearing.

Furthermore, in the event an in-person hearing is held in a location where the CDC Community Level is MEDIUM or HIGH, all persons attending the hearing, including visitors and contractors, as well as non-government parties, representatives, and witnesses, must present a completed FMSHRC COVID–19 Screening Tool form for review. The FMSHRC COVID–19 Screening Tool form is available in Appendix C of the agency's workplace safety plan. Individuals who plan to attend a hearing can also obtain a copy of the form by contacting a Judge's office.

The Judge may consider all factors, in totality, in determining if a remote hearing will be held and who may be present for the hearing. No single factor is dispositive.

These procedures shall remain in place until the July 11 order is vacated or otherwise modified by subsequent order.

Authority: 30 U.S.C. 823; 29 CFR part 2700.

Dated: July 12, 2022.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2022–15277 Filed 7–15–22; 8:45 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than August 2, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Bell Family Voting Trust (''Trust''), Wisconsin Rapids, Wisconsin and Steven C. Bell and Paula J. Bell, both of Wisconsin Rapids, Wisconsin, Elizabeth Bell Killian, Spokane, Washington, Rebecca L. Kettleson, Wausau, Wisconsin and Margaret S. Bell, Chicago, Illinois, all co-trustees of the Trust;* to become members of the Bell Family Control Group, a group acting in concert, to acquire voting shares of WoodTrust Financial Corporation, and thereby indirectly acquire voting shares of WoodTrust Bank, both of Wisconsin Rapids, Wisconsin.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–15274 Filed 7–15–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No. 0970–0036]

Submission for OMB Review; ORR–6 Performance Report

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for Public Comment.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) is requesting a renewal of the ORR–6 Performance Report (OMB #0970–0036, expiration 03/31/2023). ORR published a notice in the **Federal Register** on 8/12/2021 requesting comments within 60-days on revisions to the ORR–6.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

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. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ACF/ORR requests information from the ORR–6 Performance Report to determine effectiveness of state Cash and Medical Assistance (CMA) and Refugee Support Services programs. ORR uses state-by-state CMA utilization rates, derived from the ORR–6 Performance Report, to formulate program initiatives, priorities, standards, budget requests, and assistance policies. Federal regulations require state Refugee Resettlement, Replacement Designee agencies, and local governments submit statistical or programmatic information that the ORR Director determines to be required to fulfill their responsibility under the Immigration and Nationality Act (INA). The currently approved ORR–6 has been updated to add new data elements to better understand the meaning of existing data collection, and update the instructions and reformat some of the forms to provide clearer definitions and better distinguish the participation and performance results of different support services programs. In addition, some revisions are related to Afghanistan Supplemental Appropriations Act 2022, Additional Afghanistan Supplemental Appropriations Act 2022, and Additional Ukraine Supplemental Appropriations Act 2022

Respondents: State governments and Replacement Designees.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total No. of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
ORR–6 Performance Report	64	6	15	5,760	1,920

Estimated Total Annual Burden Hours: 1,920.

Authority: 8 U.S.C 1522 of the Immigration and Nationality Act (the Act) (Title IV, Sec. 412 of the Act), and 45 CFR 400.28(b).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–15227 Filed 7–15–22; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–1999–D–2955 (formerly 1999D–4071)]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision 2); 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 (GFI) #100 (VICH GL 18(R2)) entitled ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision 2).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The objective of this draft guidance is to recommend acceptable amounts for residual solvents in pharmaceuticals for the safety of the target animal as well as for the safety of residues in products derived from treated food-producing animals. This revision updates the listings and classification of solvents.

DATES: Submit either electronic or written comments on the draft guidance by September 16, 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–1999–D–2955 (formerly 1999D–4071) for ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision 2).'' 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 this draft guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the draft guidance may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Mai Huynh, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0669, *mai.huynh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft GFI #100 (VICH GL18(R2)) entitled ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision 2).'' Residual solvents in pharmaceuticals are defined in the guidance as organic volatile chemicals that are used or produced in the manufacture of active substances or

excipients, or in the preparation of veterinary medicinal products. The solvents are not completely removed by practical manufacturing techniques. The objective of this draft guidance is to recommend acceptable amounts for residual solvents in pharmaceuticals for the safety of the target animal as well as for the safety of residues in products derived from treated food-producing animals. The draft guidance recommends use of less toxic solvents and describes levels considered to be toxicologically acceptable for some residual solvents. This revision updates the listings and classification of solvents.

FDA has participated in efforts to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonization of Technical Requirements for Approval of Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; International Federation for Animal Health—Europe; FDA—Center for Veterinary Medicine and U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Veterinary Products Association, and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

There are eight observers to the VICH Steering Committee: One representative from government and one representative from industry of Australia, New Zealand, Canada, and South Africa. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Animal Health.

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 ''Impurities: Residual Solvents in New Veterinary Medicinal Products, Active Substances and Excipients (Revision 2).'' 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 in section 512(n)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(n)(1)) have been approved under OMB control number 0910–0669; the collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

III. Electronic Access

Persons with access to the internet may obtain an electronic version of the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov*.

Dated: July 12, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–15244 Filed 7–15–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1366]

Data Standards; Requirement Begins for the Clinical Data Interchange Standards Consortium Versions 1.2 and 1.3 of the Analysis Data Model Implementation Guide

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA or Agency) Center for Biologics Evaluation and Research (CBER) and Center for Drug Evaluation and Research (CDER) are announcing the date that support begins for versions 1.2 and 1.3 of the Clinical Data Interchange Standards Consortium (CDISC) Analysis Data Model Implementation Guide (ADaMIG) and the date that this version update is required in certain submissions. The Agency will update the FDA Data Standards Catalog (Catalog) to reflect these changes.

DATES: Support for versions 1.2 and 1.3 of the CDISC ADaMIG begins July 18, 2022. The requirement for electronic submissions to be submitted using versions 1.2 and 1.3 of the CDISC ADaMIG begins March 15, 2024, for new drug applications (NDAs), abbreviated new drug applications (ANDAs), certain biologics license applications (BLAs), and certain investigational new drug applications (INDs).

ADDRESSES: You may submit comments 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–2022–N–1366 for ''Data Standards; Requirement Begins for the Clinical Data Interchange Standards Consortium Versions 1.2 and 1.3 of the Analysis Data Model Implementation Guide.'' 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.

FOR FURTHER INFORMATION CONTACT:

CDER: Helena Sviglin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1117, Silver Spring, MD 20993–0002, 240–402–6511, *cderdatastandards@fda.hhs.gov.*

CBER: 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: FDA's CBER and CDER are issuing this **Federal Register** notice to announce the date that support begins for versions 1.2 and 1.3 of the CDISC ADaMIG and the date that this version update is required in certain submissions. The FDA guidance for industry ''Providing Regulatory Submissions in Electronic Format—Standardized Study Data'' (June 2021) (eStudy Data guidance), posted on FDA's Study Data Standards Resources web page at *https://www.fda.gov/forindustry/datastandards/studydatastandards/default.htm,* implements the electronic submission requirements of section 745A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379k–1(a)) for study data contained in NDAs, ANDAs, certain BLAs, and certain INDs submitted to CDER or CBER by specifying the format for electronic submissions. The eStudy Data guidance states that a **Federal Register** notice will specify any new standards and version updates to FDA-supported study data standards that will be added to the Catalog, when the support for such standards and version updates begins or ends, and when the requirement to use such standards and version updates in submissions begins or ends.

Support for versions 1.2 and 1.3 of the CDISC ADaMIG begins July 18, 2022. The transition date for this version update is March 15, 2023. The requirement for electronic submissions to be submitted using versions 1.2 and 1.3 of the CDISC ADaMIG is March 15, 2024, for NDAs, ANDAs, certain BLAs, and certain INDs.

Dated: July 11, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–15248 Filed 7–15–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–0476]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. This **Federal Register** notice seeks public comment on the revision recently submitted to OMB for review and approval. These comments will be reviewed and taken into consideration if the Department intends to make any revisions to the information collection request approved under [0990–0476]. Interested persons are invited to submit comments regarding the aforementioned non-substantive changes 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 on the ICR must be received on or before August 17, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice. To be assured consideration, comments and recommendations must be submitted *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: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 264–0041. When submitting comments or requesting information, please include the document identifier 0990–0476–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information

collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: ASPA COVID–19 Public Education Campaign Market Research.

Type of Collection: Revision.

OMB No. 0990–0476—Office of the Assistant Secretary for Public Affairs (ASPA) within Office of the Secretary.

Abstract

The Office of the Assistant Secretary for Public Affairs (ASPA), U.S. Department of Health and Human Services (HHS) is requesting a revision on a currently approved collection including three components: 1. Current Events Tracker (CET), 2. Qualitative data collection in the form of focus groups, interviews, and dyads, and 3. Copy testing surveys. This revision supports continuation of the approved data collection by adding burden and iterations to support the program during the ongoing COVID–19 public health emergency and through the expiration of the package 0990–0476 in early 2024. Together, these efforts support the development and execution of the COVID–19 Public Education Campaign. The broad purpose of each effort is as follows:

Current Events Tracker

The primary purpose of the COVID–19 Current Events Tracker (CET) survey is to continuously track key metrics of importance to the Campaign, including vaccine confidence and uptake, familiarity with and trust in HHS and other trusted messengers, and the impact of external events on key attitudes and behaviors. This information will inform Campaign development and execution including changes in messaging strategies necessary to effectively reach the entire U.S. population or specific subgroups.

Focus Groups/Interviews/Dyads

ASPA is collecting information qualitatively to inform the Campaign about audience risk knowledge, perceptions, current behaviors, and barriers and motivators to healthy behaviors (including COVID–19 vaccination). Ultimately these focus groups, interviews, and/or dyads will provide in-depth insights regarding information needed by Campaign audiences as well as their attitudes and behaviors related to COVID–19 and the COVID–19 vaccines. These will be used to inform the development of Campaign messages and strategy.

Copy Testing Surveys

Prior to placing Campaign advertisements in market, ASPA will conduct copy testing surveys to ensure the final Campaign messages have the intended effect on target attitudes and behaviors. Copy testing surveys will be conducted with sample members who comprise the target audiences; these surveys will assess perceived effectiveness of the advertisements as well as the effect of exposure to an ad on key attitudes and behavioral intentions. The results from these surveys will be used internally by ASPA to inform decisions on Campaign messages and materials; for example, to identify revisions to the materials or determine which advertisement to move to market.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
CET	CET Questionnaire	[a] 138,000	1	7.2/60	16,560
Foundational Focus Groups, Interviews, and/or Dyads [b].	Screener and Interview	[c] 50,000	1	9.3/60	7,750
Copy Testing Survey	Screener and Survey	[d] 540,000	1	3.78/60	34,020
Sum of All Studies		728,000			58,330

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–15235 Filed 7–15–22; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurobiology of Pain and Itch.

Date: July 29, 2022.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, (301) 435–1766, *bennettc3@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15283 Filed 7–15–22; 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 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: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Specialized Innovation Program.

Date: August 24, 2022.

Time: 10:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Center for Advancing Translational Sciences, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nakia C. Brown, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Institutes of Health, National Center for Advancing Translational Sciences, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, 301–827–4905, *brownnac@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Small Grant Program.

Date: September 1, 2022.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Center for Advancing Translational Sciences, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alumit Ishai, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Institutes of Health, National Center for Advancing Translational Sciences, 6701 Democracy Boulevard, Suite 1037, Bethesda, MD 20892, 301–827–5819, *alumit.ishai@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: July 12, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15217 Filed 7–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[OMB Control Number 1653–0037]

Agency Information Collection Activities: Extension, Without Change, of a Currently Approved Collection: Notice to Student or Exchange Visitor

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** on April 28, 2022, allowing for a 60-day comment period. The activity was labeled as a revision however ICE is not modifying the existing form or information received. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until August 17, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of the 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: For specific questions related to collection activities, please contact or email Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, email: *sevp@ice.dhs.gov,* telephone:703–603–3400. This is not a toll-free number

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(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.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* I–515A; U.S. Immigration and Customs Enforcement

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. When an academic student (F–1), vocational student (M–1), exchange visitor (J–1), or dependent (F–2, M–2 or J–2) is admitted to the United States as a nonimmigrant alien under section 101(a)(15) of the Immigration and Nationality Act (Act), he or she is required to have certain documentation. If the student or exchange visitor or dependent is missing documentation, he or she is provided with the Form I–515A, Notice to Student or Exchange Visitor. The Form I–515A provides a list of the documentation the student or exchange visitor or dependent will need to provide to the Department of Homeland Security (DHS), Student and Exchange Visitor Program (SEVP) office within 30 days of admission.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,459 responses at 25 minutes (.416 hours) per response

(6) *An estimate of the total public burden (in hours) associated with the*

collection: The total estimated annual burden is 608 hours.

Dated: July 12, 2022.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2022–15211 Filed 7–15–22; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–WSFR–2022–N010; 91400–5110–0000; 91400–9410–0000]

Multistate Conservation Grant Program; Priority Lists for Fiscal Years 2019, 2020, 2021, and 2022

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce receipt of the priority lists of wildlife and sport fish conservation projects from the Association of Fish and Wildlife Agencies (Association) for Federal fiscal years (FYs) 2019, 2020, 2021, and 2022. The Association is required by law to annually submit a list of priority projects to the Service for funding consideration under the Service's Multistate Conservation Grant Program (MSCGP), which funds projects that address regional or national priorities of State fish and wildlife agencies. The Assistant Director for the Service's Wildlife and Sport Fish Restoration program recommends projects on the list to the Service Director for approval. Once projects are awarded, we must publish each priority list in the **Federal Register**. The FY 2019, 2020, 2021 and 2022 projects have been awarded.

ADDRESSES: Lori Bennett, Multistate Conservation Grants Program, Wildlife and Sport Fish Restoration Program; U.S. Fish and Wildlife Service; 5275 Leesburg Pike; MS: WSFR; Falls Church, VA 22041–3808.

FOR FURTHER INFORMATION CONTACT: Lori Bennett, via phone at 703–358–2033, or via email at *Lori_Bennett@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000 (Improvement Act; Pub. L. 106–408, Nov. 1, 2020) amended the Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*) and established the Multistate Conservation Grant Program (now known as the Traditional MSCGP, or T–MSCGP). The Improvement Act authorizes us to award grants of up to $3 million annually from funds available under each of the Acts, for a total of up to $6 million annually. Projects are selected through a competitive process developed collaboratively by State fish and wildlife agency directors, conservation and sportsmen and sportswomen organizations, and industries that support or promote hunting, trapping, and recreational shooting. Projects can be funded under Wildlife Restoration, Sport Fish Restoration, or both, depending on the project activities. The projects to which we award grants must be on a list of priority projects recommended to us by the Association. The Service Director, exercising the authority of the Secretary of the Interior, need not fund all projects on the list, but all projects funded must be on the Association's recommended list. The Improvement Act provides that funding for MSCGP grants is available in the fiscal year it is appropriated and for the following fiscal year, with any funds remaining after two years apportioned among the States in the manner and for the uses specified under the Wildlife Restoration and Sport Fish Restoration Acts.

In addition to the Traditional MSCGP found in the Acts, the President signed the Modernizing the Pittman-Robertson Fund for Tomorrow's Needs Act (Pub. L. 116–94) into law on December 20, 2019. This law, among other measures, created a new Modern Multistate Conservation Grant Program, which makes available up to an additional $5 million for projects designed to support recruitment, retention, and reactivation (''R3'') activities. The Service will cite this as the ''Modern Multistate Conservation Grant Program'' (R3–MSCGP).

The Association and the Service work cooperatively to manage the T–MSCGP and the R3–MSCGP. The Association sets project criteria, reviews grant applications, and provides project oversight, coordination, and guidance. Applicants must provide certification that no activities conducted under either a T–MSCGP or an R3–MSCGP award will promote or encourage opposition to regulated hunting or trapping of wildlife, or to regulated angling or taking of fish. Eligible project proposals are reviewed and ranked by the Association's committees, who consult with interested nongovernmental organizations that represent conservation organizations, sportsmen and sportswomen organizations, and industries that support or promote fishing, hunting, trapping, recreational shooting, bowhunting, or archery. Their selections become the priority list that is submitted to the Service.

The Association's National Grants Committee recommends the final list of priority projects for both programs to the directors of the State fish and wildlife agencies for their approval by majority vote. By statute, the Association then transmits the final approved list to the Service for funding under the Multistate Conservation Grant Program by October 1 of each FY. The Service then provides an additional review process in accordance with grant regulations within 2 CFR part 200 and awards and administers the financial assistance grants.

Funding Eligibility

Traditional Multistate Conservation Grant Program Funding Eligibility

Recipients awarded under the T–MSCGP may use funds for sport fish or wildlife management and research projects, boating access development, hunter safety and education, aquatic education, fish and wildlife habitat improvements, and other purposes consistent with the enabling legislation.

To be eligible for funding, a project must benefit fish and/or wildlife conservation for at least 26 States, for a majority of the States in any one Service Region, or for one of the regional associations of State fish and wildlife agencies. Grants are awarded to one or more States, a group of States, or one or more nongovernmental organizations. For the purpose of carrying out the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, we may award grants to the Service, if requested by the Association, or to a State or a group of States. The Association also requires that all project proposals address the Association's selected national strategic priorities for both MSCGPs, which are announced annually at the same time requests for proposals are sent out.

Modern Multistate Conservation Grant Program Funding Eligibility

The Modern Multistate Conservation Grant Program (R3–MSCGP) is a new program, which began awarding grants in FY 2020. The program specifically targets projects that address hunter recruitment and recreational shooter recruitment and that promote a national hunting and shooting sport recruitment program, including related communication and outreach activities.

Fiscal Year Tables

The following sections of this notice set forth the award funding and project priorities by fiscal year for the years FY 2019 through FY 2022. The list below provides abbreviations used in the tables:

Abbreviations Used in Tables

WR Funding Pittman-Robertson Wildlife Restoration funds
SFR Funding Dingell-Johnson Sport Fish Restoration funds
CITES Convention on International Trade in Endangered Species
ABC American Bird Conservancy
AFS American Fisheries Society
AFWA Association of Fish and Wildlife Agencies
ASA American Sportfishing Association
ATA Archery Trade Association
BCC Boone and Crockett Club
BCHA Back Country Hunters and Anglers
CAHSS Council to Advance Hunting and the Shooting Sports
CSU Colorado State University
CU Cornell University
CWA California Waterfowl Association
CWD Chronic Wasting Disease
DWF Delta Waterfowl Foundation
FAF Future Angler Foundation
GWF Georgia Wildlife Federation
IDNR Iowa Department of Natural Resources
IFC Instream Flow Council, Inc.
IHEA International Hunter Education Association—USA
MAFWA Midwest Association of Fish and Wildlife Agencies
MDNR Michigan Department of National Resources
MMWF Max McGraw Wildlife Federation
MSU Michigan State University
NAA National Archery Association of the United States
NCLEEF National Conservation Law Enforcement Education Foundation
NCSU North Carolina State University
NEAFWA Northeast Association of Fish and Wildlife Agencies
NMDGF New Mexico Department of Game and Fish
NMWF New Mexico Wildlife Federation
NORC National Opinion Research Center
NS National Survey of Fishing, Hunting, and Wildlife-Associated Recreation
NSSF National Shooting Sports Foundation
NWF National Wildlife Federation
NWTF National Wild Turkey Federation
OSCF Outdoor Stewards of Conservation Foundation, Inc.
PF Pheasants Forever
PSMFC Pacific States Marine Fisheries Commission
RBFF Recreational Boating & Fishing Foundation
SAF Sportsmen's Alliance Foundation
SCIF Safari Club International Foundation
SCWDS Southeastern Cooperative Wildlife Disease Study
SEAFWA Southeastern Association of Fish and Wildlife Agencies
SSSF Scholastic Shooting Sports Foundation
TRCP Theodore Roosevelt Conservation Partnership
TU Trout Unlimited
UDWR Utah Division of Wildlife Resources
UGA University of Georgia
USFWS United States Fish and Wildlife Service
UWM University of Wisconsin—Madison
WAFWA Western Association of Fish and Wildlife Agencies
WEI Wildlife Ecology Institute
WHISPers Wildlife Health Information Sharing Partnership
WMI Wildlife Management Institute
WVDNR West Virginia Department of Natural Resources

Fiscal Year 2019 Awards; Fund Availability and Priority List

The Service's Wildlife and Sport Fish Restoration Program (WSFR) had a total of $6,406,590.66 for awards in FY19 from funds carried over from FY 2018, as well as funding that had previously been sequestered; the total request for projects was $5,817,835.55, leaving a balance of $588,755.11. The Association provided the Service with a priority list of 39 projects, which included the 3 approved components of the 2016–2021 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation project. The FY 2019 priority list is in table 1. The projects in this list have been awarded.

TABLE 1—FY 2019 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST

ID	Title	Recipient	WR* funding	SFR funding	Total FY 2019 grant
1	Multistate Conservation Grant Program Coordination	AFWA	$57,900	$57,900	$115,800
2	Coordination of Farm Bill Program Implementation to Optimize Fish and Wildlife Benefits to the States.	AFWA	82,872	55,248	138,120
3	Coordination of State Fish and Wildlife Agencies' Authority to Manage Resources in Concert with Federal Actions Required by CITES.	AFWA	40,800	40,800	81,600
4	State Fish & Wildlife Agency Technical Workgroup for the 2021 National Survey.	AFWA	52,285.80	52,285.80	104,571.60
5	Coordinating and Planning National-Scale Conservation Initiatives through Communications.	AFWA	20,000	20,000	40,000
6	Implementation and Evaluation of the National Conservation Outreach Strategy.	AFWA	61,500	61,500	123,000
7	State Fish & Wildlife Agency Director Travel	AFWA	50,000	50,000	100,000
8	Susceptibility of Common North American Game Birds to West Nile Virus.	SCWDS	81,902	0	81,902
9	Management Assistance Team and National Conservation Leadership Institute.	AFWA	299,326.20	299,326.20	598,652.40
10	Conserving Fish Habitat Collaboratively in the United States Through the National Fish Habitat Partnership.	AFWA	0	250,680	250,680
11	Supporting Undergraduate and Legal Education and Occupational Experience in Natural Resource Administration.	AFWA	28,500	28,500	57,000
12	Development and Testing of an Improved System for Gathering Harvest Information Data.	WMI	149,500	0	149,500
13	Evaluating the Promise of Potential Impacts of R3 Efforts Targeting College Students (Year 2).	NCSU	78,563	29,058	107,621
14	Continued Delivery of Trapping Matters Workshops and Updating a Survey of Conservation Professionals.	MMWF	97,500	0	97,500

TABLE 1—FY 2019 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST—Continued

ID	Title	Recipient	WR* funding	SFR funding	Total FY 2019 grant
15	Coordination of the Industry, Federal and State Agency Coalition.	AFWA	47,784	47,784	95,568
16	Ensuring State Management Authority of Furbearers through a Multi-Agency, Multi-Organization Approach.	WEI	98,395	0	98,395
17	Increasing Awareness and Understanding of State Fish and Wildlife Management: Implementing AFWA Strategic Plan Goal 2.	AFWA	50,000	50,000	100,000
18	Assessing Trends in Americans' Attitudes Toward Hunting, Sport Shooting, Fishing and Trapping.	NSSF	20,025.18	20,025.18	40,050.36
19	Update and Further Development of Standard Sampling Protocols for Inland Fisheries.	AFS	0	77,602	77,602
20	Survey and Gap Analysis of North American Grassland Habitat Conservation Efforts.	ABC	130,272	0	130,272
21	National Fish Habitat Partnership Tracking Database (Maintenance, Support, and Enhancement).	PSMFC	0	20,000	20,000
22	Accelerating Development of Effective Leaders in State Fish and Wildlife Agencies.	WMI	63,250	63,250	126,500
23	America's Conservation and Hunting Heritage, A National Education Initiative.	SCIF	180,000	0	180,000
24	Quantify and Communicate the Benefits from WSFR Excise Tax Payments to Strengthen State-Federal-Industry Relations.	NSSF	86,687.50	86,687.50	173,375
25	Creating Millennial-Conservationists: Informing and Engaging the Next Generation.	WMI	74,539.50	74,539.50	149,079
26	The Missing Link in R3: Making Mentorship Work	WMI	162,388	0	162,388
27	Ensuring the Viability of the American System of Conservation Funding: Improving the Understanding of Excise-Tax-Based Funding for Conservation.	WMI	74,500	74,500	149,000
28	Planning for the Future of Conservation Law Enforcement in the United States.	NCLEEF	228,297.79	228,297.79	456,595.58
29	Developing Angler Personas to Improve R3 Marketing	ASA	0	99,800	99,800
30	Facilitation and Updating of the National Hunting and Shooting Sports Action Plan.	CAHSS	170,100	18,900	189,000
31	An Internal Look at Outdoor Recreation: Agency, Industry, and Nongovernmental Organization Attitudes Toward Fishing, Hunting, Sport Shooting, and Boating.	ASA	74,865.60	74,865.60	149,731.20
32	Locavore R3 Workshops, Teaching States How to Attract and Train Locavores to Become Anglers and Hunters.	UDWR	12,000	12,000	24,000
33	Recruiting and Retaining Youth Shooting Sports Participants Through Targeted Marketing, Education, and Peer Networking of Volunteer Coaches.	SSSF	147,673.41	0	147,673.41
34	Gettin' Families Fishin': A National Education Initiative	FAF	0	240,000	240,000
35	Improve National Coordination and Conservation Partnerships Through the Development of a Fisheries Gray Literature Database.	AFS	0	63,667	63,667
36	Engaging Landowners and Partners in Implementing Farm Bill Programs that Benefit Fish and Wildlife in Riparian Areas.	TU	0	30,000	30,000
37–NS	Method to Deriving State-Level Estimates from the 2016 NS	U.S Census	174,333.50	174,333.50	348,667
38–NS	2016 Fifty-State Survey Reports	Rockville Institute.	133,786	133,786	267,572
39–NS	2021 Coordination of the 2021 NS	USFWS	126,476.50	126,476.50	252,953
Totals			3,156,022.98	2,661,812.57	5,817,835.55

* Acronyms and initialisms for all tables are spelled out in the Abbreviations Used in Tables section.

Fiscal Year 2020 Awards; Fund Availability and Priority Lists

Traditional Multistate Conservation Grant Program Fund Availability and Priority List

The Service's WSFR program had $6,939,510.06 available for T–MSCGP awards in FY 2020, after adjusting for sequestered, recovery, and carryover amounts from FY 2019. The total request for projects was $6,928,632.57, leaving a balance of $10,877.49. The Association provided the Service with a priority list of 40 projects, which included the 2 approved components of the 2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation project. Please note that the Association's Management Assistance Team proposal requesting $598,799.12 of Multistate funds (Project #25) was provided an additional $150,000 in Federal funds from the Service's National Conservation Training Center. This funding addition was the result of a signed memorandum of agreement between the Service and the Association. The list is in table 2. The projects in this list have been awarded.

TABLE 2—FY 2020 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST

ID	Title	Recipient	WR* funding	SFR funding	Total FY 2020 grant
1	Coordination of Farm Bill Program Implementation to Optimize On-the-Ground Fish and Wildlife Benefits to the States.	AFWA	$82,872	$55,248	$138,120
2	Coordinating and Planning National-Scale Conservation Initiatives by State Fish and Wildlife Agencies.	AFWA	60,000	60,000	120,000
3	The North American Conservation Education Strategy—update and align toolkit to work for today's conservation educators who offer fish and wildlife-based programs.	AFWA	27,500	27,500	55,000
4	Introductory Implementation and Evaluation of the National Conservation Outreach Strategy—Part 2.	AFWA	69,000	69,000	138,000
5	Advancing K–12 conservation education through improved tools for educators exploring the public trust doctrine, North American Model, and related examples of wildlife management.	MMWF	31,680	7,920	39,600
6	Words Matter: Determining How to Engage the American Public Through the Language of Conservation.	WMI	61,551.69	61,551.69	123,103.38
7	Coordinating and Planning National-Scale Conservation Initiatives Through Effective Communications.	AFWA	20,000	20,000	40,000
8	Updating the AFS Blue Book: Standard Methods for Aquatic Pathogen Identification and Fish Health Management.	AFS	0	83,406	83,406
9	Characterizing and Mapping Chronic Wasting Disease Prion Strains Across the United States.	CSU	60,138	0	60,138
10	Pilot of the WHISPers wildlife mortality event data system	IDNR	15,240	0	15,240
11	Exploring the potential for in utero transmission of CWD prions in white-tailed deer.	SCWDS	99,741	0	99,741
12	National Coordination and Technical Assistance for the Prevention, Surveillance, and Management of CWD.	WMI	99,225	0	99,225
13	A Novel Genetic Resource To Inform Management of CWD	MDNR	138,696.59	0	138,696.59
14	Coordination of the Industry, Federal and State Agency Coalition.	AFWA	41,727	41,727	83,454
15	Angler R3 Program Funding Needs Assessment	RBFF	0	100,929.60	100,929.60
16	Tracking Participation Through Expanded Regional & National License Sales Dashboards.	ASA	109,830	109,830	219,660
17	Digital Marketing Techniques to Increase Angler Participation	RBFF	0	340,000	340,000
18	Ensuring the Viability of the American System of Conservation Funding: Improving the Understanding of Excise-tax-based Funding for Conservation.	WMI	64,579.50	64,579.50	129,159
19	Increasing Participation and License Sales from Hunter Education Graduates.	SAF	141,350	0	141,350
20	Fishing in Schools: A Grassroots Approach to Increasing Angler Participation.	ASA	0	266,500	266,500
21	Expansion of R3 and Engagement of the National R3 Implementation Workgroup.	CAHSS	189,600	47,400	237,000
22	Sportfishing's 2019 State-Level, Congressional District and Species-Level Economic Impacts.	ASA	0	88,400	88,400
23	Coordination of State Fish and Wildlife Agencies' Authority to Manage Wildlife Resources in Concert with Federal Actions Required by International Treaties, Conventions, Partnerships, and Initiatives.	AFWA	47,700	47,700	95,400
24	Combating Trafficking and Illegal Commercialization by Strengthening Communication and Coordination among State and National Conservation Agencies' Law Enforcement Investigations and Intelligence Sections.	NCLEEF	125,000	125,000	250,000
25	Management Assistance Team and National Conservation Leadership Institute.	AFWA	299,399.56	299,399.56	598,799.12
26	Increasing Awareness and Understanding of State Fish and Wildlife Management: Implementing AFWA Strategic Plan Goal 2.	AFWA	50,000	50,000	100,000
27	Supporting Law, Graduate, and Undergraduate Students' Study of Legal Principles and Professional Experience in Conservation Law and Policy Through a Center of Conservation Excellence.	NWTF	70,500	70,500	141,000
28	A Collaborative Network-Based Tool for Improved CWD Management in North America.	MDNR	99,000	0	99,000
29	Multistate Conservation Grant Program Coordination	AFWA	60,900	60,900	121,800
30	Examining Societal Acceptance of Hunting and Other Consumptive Uses of Wildlife, in Order to Create and Test Agency Communication Strategies That Promote Public Acceptance and Advance Conservation.	MMWF	105,730.65	18,658.35	124,389

TABLE 2—FY 2020 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST—Continued

ID	Title	Recipient	WR* funding	SFR funding	Total FY 2020 grant
31	State Fish and Wildlife Agency Technical Workgroup for the 2021 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey).	AFWA	40,250	40,250	80,500
32	Capacity Building, Training, and Pilot Testing of the Fish and Wildlife Relevancy Roadmap.	WMI	87,887.50	87,887.50	175,775
33	Preparing for the Future of Fish and Wildlife Management	CSU	69,785.44	69,785.44	139,570.88
34	Update and Further Development of Standard Sampling Protocols for Inland Fisheries (Phase 2 of 2).	AFS	0	97,399	97,399
35	Fisheries Research Tracking and Information Exchange Tool	AFS	0	84,373	84,373
36	National Fish Habitat Partnership Project Tracking Database (Maintenance, Support, and Enhancement).	PSMFC	0	20,000	20,000
37	Development of YY Male Broodstocks for Eradication of Invasive Common Carp Populations.	WAFWA	0	75,704	75,704
38	Assessing the State of Fisheries Research Agendas in the United States and Outlining Best Practices for Development of Agendas.	AFS	0	90,872	90,872
39–NS	Coordination Component for the 2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for Year 2020.	USFWS	130,853.50	130,853.50	261,707
40–NS	2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (5 years).	NORC	807,810	807,811	1,615,621
Totals			3,307,547.43	3,621,085.14	6,928,632.57

* Acronyms and initialisms for all tables are spelled out in the Abbreviations Used in Tables section.

FY 2020 Modern Multistate Conservation Grant Program Fund Availability and Priority List

FY 2020 was the first year that Modern Multistate Conservation Grant Program (R3–MSCGP) funds became available for award. The Service's WSFR program had $4,705,000 available for R3–MSCGP awards after sequestering $295,000; the total request for projects was the full available amount, leaving a balance of $0. The Service worked with the Association to make these funds available quickly for eligible projects. The Association provided the Service a priority list of 25 projects; the Service was able to award all projects by early December 2020. The list is in table 3.

TABLE 3—FY 2020 MODERN MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST

ID	Title	Recipient	Total 2020 R3 award
1	MAFWA * Regional Small Game Diversity and Inclusion Marketing Toolkit	MAFWA	$179,200
2	Exploring the R3 Needs and Opportunities of Female Hunters, Shooters, and Archers	CWA	245,004.50
3	Helping State Agencies Effectively Recruit and Retain the New Locavore Audience	WMI	154,000
4	Strengthening State Agency R3 of Diverse Hunters and Recreational Shooters	TRCP	35,500
5	Activating and Converting Target Archers into Hunting and Shooting Sports	NAA	78,295
6	Building Community to Retain Women Hunters	NWF	221,071
7	Scaling a College-Focused R3 Model	GWF	175,300
8	Increase Industry and Agency Relations and Communications by Expanding Partner-with-a-Payer Initiative.	NSSF	146,112.75
9	Effectively Targeting New Adult Hunters	WMI	175,825
10	Increasing Hunting Mentor and Mentee Numbers and Effectiveness	WMI	203,821
11	Effective R3 Marketing Strategies	WMI	297,500
12	Leveraging Influencers & Content Marketing to Recruit Bowhunters	ATA	230,000
13	Email Marketing Best Practices for State Agencies	WMI	272,305
14	What is the public really saying about hunting and hunters (and what can we do about it?)	NMDGF	120,000
15	Message Testing: National Ad Campaign to Promote Support of and Participation in Hunting and Recreational Shooting.	NWTF	230,658
16	Advancing R3 Forward	CAHSS	450,000
17	Hunting for Conservation Online: A Tool from CLfT to Engage in College R3 Efforts	MMWF	74,750
18	Combining States and Industry Resources to Increase R3 Success	NSSF	278,900
19	Hunters Connect State Content Delivery System and Database	IHEA	174,550
20	Trapping Matters—Communication Message Training Public Harvest of Wildlife	MMWF	52,250
21	Frameworks and Standards for R3 Effort and Strategy Evaluation	WMI	116,149
22	Development of a Real-time License Data Dashboard	ASA	239,450
23	Development of a Hunter Avidity Model to Assess & Improve R3 Participation	SAF	207,055
24	Assessing the Quality and Availability of Hunting and Shooting Access in the United States	NSSF	224,967.75
25	Hunting and Recreational Shooting Recruitment, Retention, and Reactivation Among American Military Members.	SAF	122,336
Total			4,705,000

* Acronyms and initialisms for all tables are spelled out in the Abbreviations Used in Tables section.

FY 2021 Awards; Fund Availability and Priority List

After adjusting for sequestered, recovery, and carryover amounts from FY 2020, the T–MSCGP had $6,515,283 available for award, and the R3–MSCGP had $5,010,000 available. The total request for T–MSCGP projects was $6,488,271.53, leaving a balance of $27,011.47. The total request for R3–MSCGP projects was $3,066,603.90, leaving a balance of $1,943,396.10. Please note that the Association's Management Assistance Team proposal requesting $555,277.37 of Multistate funds (Project #10) also was provided an additional $150,000 in Federal funds from the National Conservation Training Center. This funding addition was the result of a signed Memorandum of Agreement between the Service and the Association. The Association provided the Service with a single Priority List of 39 proposals, consisting of 22 T–MSCGP projects (including 2 approved components of the 2022–2027 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation project) and 17 R3–MSCGP projects. The list is in table 4. The projects in this list have been awarded.

TABLE 4—FY 2021 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM AND MODERN MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST

ID	Title	Recipient	WR* funding	SFR funding	R3 funding	Total 2021 grant
1	Communicating the Effects of Climate Change on Fish and Fisheries.	AFS	$0	$111,870	$0	$111,870
2	Surveillance Optimization Project for CWD Dashboard: A Web Application for Disease Visualization and Data-Driven Decisions.	CU	244,946	0	0	244,946
3	Online Platform for CWD Data Sharing Management in North America.	WVDNR	225,000	0	0	225,000
4	Fisheries Gray Literature Database State Agency Expansion and Support.	AFS	0	105,191	0	105,191
5	Preventing the Spread of Rabbit Hemorrhagic Disease (RHDV2) in the United States by Engaging Key Stakeholders in Collaborative Management Solutions.	UGA Research Foundation.	149,797	0	0	149,797
6	Wildlife Viewer Survey: Enhancing Relevancy and Engaging Support from a Broader Constituency.	AFWA	65,300	65,300	0	130,600
7	An Agency Path Forward: Designing Effective Engagement and Building Capacity for Relevancy.	WMI	149,721.50	149,721.50	0	299,443
8	State- and Congressional District-Level Economic Impacts for Hunting and Target Shooting.	SAF	100,308	0	0	100,308
9	Ensuring the Viability of the American System of Conservation Funding: Improving the Understanding of Excise-Tax-Based Funding for Conservation.	WMI	85,932.50	85,932.50	0	171,865
10	Management Assistance Team and the National Conservation Institute—Leadership Development for AFWA Members and the Conservation Community.	AFWA	277,638.69	277,638.68	0	555,277.37
11	Instream Flow and Water-Level Conservation Training and Research Center.	IFC	0	119,325	0	119,325
12	Maintaining Relevancy of the AFWA North American Trapper Education Program for State Fish and Wildlife Agencies.	AFWA	100,000	0	0	100,000
13	Coordination of Farm Bill Program Implementation to Optimize On-the-Ground Fish and Wildlife Benefits to the States.	AFWA	84,819.60	56,546.40	0	141,366
14	Coordination of State Fish and Wildlife Agencies' Authority to Manage Wildlife Resources in Concert with Federal Actions Required by International Treaties, Conventions, Partnerships, and Initiatives.	AFWA	64,800	64,800	0	129,600
15	Supporting Effective Coordination of Regional & National Conservation Efforts Through State Fish & Wildlife Agencies.	AFWA	80,869.80	80,869.80	0	161,739.60
16	Coordination of the Industry, Federal and State Agency Coalition.	AFWA	30,927	30,927	0	61,854
17	Expanding the Community of Support for Fish Habitat Partnership Conservation Efforts.	AFWA/National Fish Habitat Partnership.	0	176,240	0	176,240

TABLE 4—FY 2021 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM AND MODERN MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST—Continued

ID	Title	Recipient	WR* funding	SFR funding	R3 funding	Total 2021 grant
18	Strengthening Awareness of State Fish and Wildlife Management: Support for Legal Strategy and Conservation Law Education Under MSCGP Strategic Priority 4.	AFWA	60,800	60,800	0	121,600
19	Supporting Law, Graduate and Undergraduate Students' Study of Legal Principles and Professional Experience in Conservation Law and Policy and Providing Opportunity for Practicing Lawyers and Judges' Continuing Legal Education on Conservation Law Under MSCGP Strategic Priority 4.	NWTF	87,033	87,033	0	174,066
20	Multistate Conservation Grant Program Coordination.	AFWA	45,049.20	45,049.20	38,613.60	128,712
21	Measuring the Efficacy of State Recruitment, Retention, and Reactivation (R3) Efforts: A Quantitative Approach.	WMI	0	0	137,530	137,530
22	R3 Specific Evaluation and Social Science Training and Resources for the Modern R3 Practitioner.	MAFWA	0	0	127,573	127,573
23	Meet Demand by Building Shooting Ranges with Excise Taxes.	NSSF	0	0	102,500	102,500
24	Effective R3 Marketing Strategies	WMI for the Association of Conservation Information.	0	0	297,500	297,500
25	Testing and Implementation of the Hunter Avidity Model to Assess & Improve R3 Participation.	SAF	0	0	112,340	112,340
26	Winning at the Point of Contact: Boosting R3 Response Rates Through Professional Communications.	WMI for NEAFWA.	0	0	135,000	135,000
27	Utilizing Data Driven Marketing Strategies to Enhance New Audience Engagement, R3 Curriculum Development and Program Efficacy.	BCHA	0	0	156,000	156,000
28	Creating a Hunting Mentor Communication Toolkit.	PF for MAFWA.	0	0	139,865	139,865
29	Modernizing Trapping Matters Professional Development Workshops and Wild Fur Schools Delivery Through Updated Messaging and the Creation of Distance Learning Modules.	MMWF	0	0	100,000	100,000
30	Converting 2020's Surge of New Firearm and Hunting License Owners into Active Hunters and Target Shooters.	NSSF	0	0	136,500	136,500
31	Retaining 2020's Surge of Licensed Anglers	AFS	0	188,712	0	188,712
32	Asset Creation: National Ad Campaign to Promote Support for and Participation in Hunting and Shooting.	NWTF	0	0	350,000	350,000
33	Tracking Participation Through Expanded, Faster License Data Dashboards.	ASA	0	160,562.16	121,125.84	281,688
34	Facilitation of National R3 Strategies	CAHSS	0	0	652,850	652,850
35	Effectiveness of Hunter Education Delivery: Finding the Missing Data.	IHEA	0	0	143,794	143,794
36	Archers USA Varsity Archery Next Step Program Taking Recruitment into Retention, Transitioning the National Archery in the Schools Program Participants into Bowhunters.	ATA	0	0	175,000	175,000
37	Hunter Education in a Post-COVID–19 World.	IHEA	0	0	140,412.46	140,412.46
38–NS	Coordination Component for the 2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for Year 2020.	USFWS	132,777.50	132,777.50	0	265,555

TABLE 4—FY 2021 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM AND MODERN MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST—Continued

ID	Title	Recipient	WR* funding	SFR funding	R3 funding	Total 2021 grant
39–NS	2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (5 years).	NORC	1,251,628	1,251,628	0	2,503,256
Totals	.....	.....	3,237,347.79	3,250,923.74	3,066,603.90	9,554,875.43

* Acronyms and initialisms for all tables are spelled out in the Abbreviations Used in Tables section.

FY 2022 Awards; Fund Availability and Priority List

After adjusting for sequestered, recovery, and carryover amounts from FY 2021, the T–MSCGP had $6,598,154.68 available for award. The total request for T–MSCGP projects was $6,571,005.97, leaving a balance of $27,148.71. After adjusting for sequestered, recovery, and carryover amounts from FY 2021, the R3–MSCGP had $7,045,896.10 available. The total request for R3–MSCGP projects was $5,318,864.91, leaving a balance of $1,727,031.19. Please note that the Association's Management Assistance Team proposal requesting $560,000 of Multistate funds (Project #18) was provided an additional $150,000 in Federal funds from the National Conservation Training Center. This funding addition is the result of a signed memorandum of agreement between the Service and the Association. The Association provided the Service with a Priority List of 44 proposals, consisting of 20 T–MSCGP projects (including 2 approved components of the 2022–2027 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation project) and 24 R3–MSCGP projects. The list is in table 5. The projects in this list have been awarded.

TABLE 5—FY 2022 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM AND MODERN MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST

ID	Title	Recipient	WR* funding	SFR funding	R3 funding	Total 2022 grant
1	Modernizing Fish Hatchery Management (aka the 'Piper Manual' or 'Black Book'), the How-to Manual for Practicing Fish Culturists.	AFS	$0	$123,554.60	$0	$123,554.60
2	Utilizing a Novel Genetic Resource to Inform Management of CWD.	MDNR	199,061	0	0	199,061
3	Improve PKD Diagnostics and Assess the Impact of *Tetracapsuloides bryosalmonae* Infection on North American Salmonids.	MSU	0	145,844.37	0	145,844.37
4	Contaminant Loads in Waterfowl of the NE Atlantic Flyway: New Threats and Outdated Advisories.	CU	280,959	0	0	280,959
5	Burial Disposal of CWD-Infected Carcasses: Migration and Decontamination of Prions in Model Landfill Substrates.	UWM	193,581	0	0	193,581
6	Advancing Implementation of the Fish and Wildlife Relevancy Roadmap.	WMI	79,425	79,425	79,425	238,275
7	Ensuring the Viability of the American System of Conservation Funding: Improving the Understanding of Excise-Tax-Based Funding for Conservation.	WMI	75,191	65,190	0	140,381
8	Social Listening for Relevancy	WMI	66,187.50	66,187.50	0	132,375
9	Modernize the Organization, Authority, and Programs of State Fish and Wildlife Agencies Report.	WMI	103,450	58,756	0	162,206
10	Best Practices for Cultivating Diverse Fish and Wildlife Agency Workforces.	CSU	71,574	71,574	0	143,148
11	Developing Your Why: An Assessment of WAFWA Member States' DEI Journey.	WAFWA	37,293	37,293	0	74,586
12	New Mexico Wildlife Federation: Mi Tierra Salvaje.	NMWF	95,400	75,000	75,000	245,400
13	Development of Consistent Policy and Law to Prevent Translocation of Feral Swine.	WMI	93,555	0	0	93,555
14	Coordination of Farm Bill Program Implementation to Optimize On-the-Ground Fish and Wildlife Benefits to the States.	AFWA	78,120	52,080	0	130,200
15	Exploring the motivations and deterrents of wildlife poachers, the true conservation costs of wildlife crime, and developing an approach to ensure restitution, fines, and penalties fit the crimes.	BCC	205,272	0	0	205,272

TABLE 5—FY 2022 TRADITIONAL MULTISTATE CONSERVATION GRANT PROGRAM AND MODERN MULTISTATE CONSERVATION GRANT PROGRAM PRIORITY LIST—Continued

ID	Title	Recipient	WR* funding	SFR funding	R3 funding	Total 2022 grant
16	Strengthening Awareness of State Fish and Wildlife Management: Support for Legal Strategy and Conservation Law Education Under MSCGP Strategic Priority 4.	AFWA	14,240	14,240	0	28,480
17	Supporting Undergraduate/Graduate/Law Students' & Post-Graduates' Education & Professional Experience in Conservation Law & Policy.	NWTF	75,452.50	75,452.50	0	150,905
18	Increasing Conservation Management Capacity Through Skills, Leadership, and Knowledge Development.	AFWA	280,000	280,000	0	560,000
19	Multistate Conservation Grant Program Management.	AFWA	58,680	58,680	58,680	176,040
20	Coordination of State Fish and Wildlife Agencies' Authority to Manage Wildlife Resources in Concert with Federal Actions Required by International Treaties, Conventions, Partnerships, and Initiatives.	AFWA	64,800	64,800	0	129,600
21	Coordination of National-Scale Conservation Efforts by State Fish & Wildlife Agencies: Travel, Industry, Agency and Communications.	AFWA	101,870	101,870	0	203,740
22	Realtime License Data Dashboard Improvement and Expansion.	ASA	0	117,352	117,352	234,704
23	The New Future of Hunting and Fishing	WMI	0	0	145,030	145,030
24	A National Campaign to Connect Millennials and Generation Z with Hunting, Shooting, and the Outdoors.	WMI	0	0	470,538	470,538
25	Discovering Family Bowfishing—National Education Initiative.	ATA	0	54,600	127,400	182,000
26	Phase 3—Launch and Education: National Ad Campaign to Promote Support for and Participation in Hunting and Shooting.	NWTF	0	0	100,000	100,000
27	Effectively Targeting New Adult Hunters	WMI	0	0	158,430	158,430
28	Expanding Relevancy to Include More Diverse Audiences.	ATA	0	0	71,000	71,000
29	Firearms Fundamentals Course Promotion Through SEAFWA States.	SEAFWA	0	0	275,000	275,000
30	Social Influencers to Drive R3 in SEAFWA	SEAFWA	0	0	300,000	300,000
31	R3 Through Marketing via Pilot States	WMI	0	0	292,500	292,500
32	The Hunter's Network National Version	IHEA	0	0	248,275	248,275
33	Identifying When to Use In-Person vs Virtual R3 Events.	SAF	0	58,219	58,219	116,438
34	Development and Implementation of a Learn to Hunt Upland Game Digital Course to Strengthen Strategic R3 Efforts of Diverse Hunters.	PF	0	0	236,578	236,578
35	Native American Participation Research and Outreach.	OSCF	0	0	116,000	116,000
36	Delta Waterfowl's University Hunting Program.	DWF	0	0	284,614	284,614
37	Black Hunters: Reclaiming the Tradition	WMI	0	0	263,329	263,329
38	Connecting Different Cultures to Hunting and Fishing Through Food.	WMI	0	24,000	48,500	72,500
39	Extending Academics Afield to Advance Equity in College R3 Programming.	GWF	0	0	360,458	360,458
40	Hunters Connect Audience Expansion	IHEA	0	0	178,530	178,530
41	MAFWA Small Game Diversity and Inclusion Outreach Toolkit: Phase 2.	MAFWA	0	0	220,000	220,000
42	2022–2024 Facilitation of National R3 Strategies.	CAHSS	0	0	1,034,006.91	1,034,006.91
43–NS	2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (5 years).	NORC	1,251,628	1,251,628	0	2,503,256
44–NS	2022 National Survey Coordination	USFWS	134,760.50	134,760.50	0	269,521
Totals			3,560,499.50	3,010,506.47	5,318,864.91	11,889,870.88

* Acronyms and initialisms for all tables are spelled out in the Abbreviations Used in Tables section.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–15214 Filed 7–15–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR912000. L07772100. XZ0000. 22x.HAG22–0020]

Call for Nominations for the Southeast Oregon and John Day-Snake Resource Advisory Councils and the Steens Mountain Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of call for nominations.

SUMMARY: The purpose of this notice is to request public nominations for the Bureau of Land Management's (BLM) Southeast Oregon and John Day-Snake Resource Advisory Councils (RACs) and the Steens Mountain Advisory Council to fill existing vacancies, as well as member terms that are scheduled to expire. The Councils provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.

DATES: All nominations must be received no later than August 17, 2022.

ADDRESSES: Nominations and completed applications should be sent to the BLM Oregon District Offices listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Morgan Rubanow, Public Affairs Specialist, BLM Oregon State Office, telephone: (503) 545–9717, email: *mrubanow@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, council membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing the advisory councils are found at 43 CFR subpart 1784.

Individuals may nominate themselves or others for appointment by the Secretary. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the advisory committee. Nominees should demonstrate a commitment to collaborative resource decision-making. Simultaneous with this notice, the BLM Oregon State Office will issue a press release providing additional information for submitting nominations.

The Southeast Oregon and John Day-Snake RACs include the following three membership categories:

Category One—Holders of Federal grazing permits or leases within the area for which the RAC is organized; represent interests associated with transportation or rights-of-way; represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities; represent the commercial timber industry; or represent energy and mineral development.

Category Two—Representatives of nationally or regionally recognized environmental organizations; dispersed recreational activities; archaeological and historical interests; or nationally or regionally recognized wild horse and burro interest groups.

Category Three—Hold State, county, or local elected office; are employed by a State agency responsible for the management of natural resources, land, or water; represent Indian tribes within or adjacent to the area for which the RAC is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public-at-large.

The Steens Mountain Advisory Council consists of 13 members that include a private landowner in the Steens Mountain Cooperative Management and Protection Area (CMPA); two representatives who are grazing permittees on Federal lands in the CMPA; a representative interested in fish and recreational fishing in the CMPA; a representative of the Burns Paiute Tribe; two representatives who are recognized environmental representatives, one of whom shall represent the State as a whole, and one of whom is from the local area; a representative who participates in dispersed recreation, such as hiking, camping, nature viewing, nature photography, bird watching, horseback riding, or trail walking; a representative who is a recreational permit holder or is a representative of a commercial recreation operation in the CMPA; a representative who participates in mechanized or consumptive recreation, such as hunting, fishing, off-road driving, hang gliding, or parasailing; a representative with expertise and interest in wild horse management on Steens Mountain; a representative who has no financial interest in the CMPA to represent statewide interests; and one non-voting representative to serve as the State government liaison to the Council. As appropriate, certain Council members may be appointed as special Government employees (SGEs). Please be aware that applicants selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following Web site: *https://www.doi.gov/ethics/oge-form-450.* Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact (202) 202–208–7960 or *DOI_Ethics@sol.doi.gov* with any questions about the ethics requirements for members appointed as SGEs.

Individuals may nominate themselves or others. Nominees must be residents of the State of Oregon. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making.

The following must accompany all nominations:

—A completed RAC application, which can either be obtained through your local BLM office or online at: *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf.*

—Letters of reference from represented interests or organizations; and

—Any other information that addresses the nominee's qualifications.

Nominations and completed applications should be sent to the office listed as follows:

Southeast Oregon RAC

Larisa Bogardus, Public Affairs Officer, BLM Vale District Office, 3100 H St., Baker City, OR 97814; phone: (541) 523–1407; email: *lbogardus@blm.gov.*

John Day-Snake RAC

Kaitlyn Webb, Public Affairs Officer, BLM Prineville District Office, 3050 NE 3rd Street, Prineville, OR 97754; phone: (541) 460–8781; email: *kwebb@blm.gov.*

Steens Mountain Advisory Council

Tara Thissell, Public Affairs Specialist, BLM Burns District Office, 28910 Hwy. 20 West, Hines, OR 97738; phone: (541) 573–4519; email: *tthissell@blm.gov.*

(Authority: 43 CFR 1784.4–1)

Donald Manuszewski,

Deputy State Director, Communications.

[FR Doc. 2022–15212 Filed 7–15–22; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZP02000.L17110000.PM0000 LXTRJBHT0000]

Notice of Temporary Closure on Public Lands in Maricopa County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: Notice is hereby given that a closure to all public use and entry is in effect on certain public lands administered by the Lower Sonoran Field Office, to provide for public health and safety during the construction of the Estrella-Wayside Recreation Area.

DATES: The temporary closure will be in effect for two years from 12:01 a.m., August 17, 2022, or until the completion of construction, whichever is sooner.

ADDRESSES: The BLM will post closure signs at main entry points to this area. This closure order will be posted in the Lower Sonoran Field Office. Maps of the affected area and other documents associated with this closure are available at the Lower Sonoran Field Office, 21605 North 7th Avenue, Phoenix, AZ 85027 and online at *https://eplanning.blm.gov/eplanning-ui/project/2003950/510.*

FOR FURTHER INFORMATION CONTACT: Katie White Bull, Sonoran Desert National Monument Manager, Lower Sonoran Field Office, 21605 North 7th Avenue, Phoenix, AZ 85027, by phone at (623) 580–5500, or by email at *kwhitebull@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This closure affects public lands in the Estrella-Wayside Recreation Area, within the Juan Bautista de Anza Recreation Management Zone of the Sonoran Desert National Monument in Maricopa County, Arizona. The legal description of the affected public lands is:

Estrella-Wayside Recreation Area

Gila & Salt River Meridian, Arizona

T. 4 S., R. 2 W.,
Sec. 26, W½SW¼,
Sec. 27, Lots 1 and 8, NE¼SE¼,
Sec. 34, SW¼, S½SW¼,
Sec. 35, NW¼, E½SW¼, SW¼SW¼;
T. 5 S., R. 2 W.,
Sec. 2, Lots 3 and 4, S½NW¼, SW¼,
Sec. 3, SE¼SW¼, S½SE¼,
Sec. 10, N½NE¼, NE¼NW¼,
Sec. 11, SW¼NE¼, NW¼, N½SE¼,
Sec. 12, W½SW¼, SE¼SW¼.

The area described contains 1,655.09 acres.

The closure is necessary to protect public health and address safety risks during the construction of Estrella-Wayside Recreation Area facilities and infrastructure. The construction of the Estrella-Wayside Recreation Area is in conformance with the Sonoran Desert National Monument Record of Decision and Approved Resource Management Plan (2012) and implements components of the Juan Bautista de Anza Recreation Management Zone, Recreation Plan Final Environmental Assessment (DOI–BLM–AZ–P040–2015–0002–EA; *https://eplanning.blm.gov/eplanning-ui/project/44347/510*) and Decision Record. A Determination of NEPA Adequacy (DNA) for implementation of the Anza RMZ Recreation area was signed on December 9, 2020 (DOI–BLM–AZ–P040–2021–0001–DNA; *https://eplanning.blm.gov/eplanning-ui/project/2003950/510*). Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7, and 43 CFR 8364.1, the BLM will enforce the following closure within the Estrella-Wayside Recreation Area.

Closure: The Estrella-Wayside Recreation Area is temporarily closed to all public use and entry.

Exemptions: The temporary closures do not apply to Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or firefighting forces in the performance of their official duties; and persons with written authorization from the BLM.

Enforcement: Any person who violates the temporary closures may be tried before a United States magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Arizona law.

Effect of Closure: The entire area encompassed by the legal description as described in this notice and in the time period as described in this notice are temporarily closed to all public use, including pedestrians and vehicles, unless specifically excepted as described above.

Authority: 43 CFR 8364.1.

Katie White Bull,

Acting Lower Sonoran Field Manager.

[FR Doc. 2022–15281 Filed 7–15–22; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–34224; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before July 9, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by August 2, 2022.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being

considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before July 9, 2022. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

FLORIDA

Polk County

Evans, John H., House, 730 Buena Vista Dr., Lake Alfred, SG100008019

GEORGIA

Muscogee County

Columbus Coca-Cola Bottling Company, 1147 6th Ave., Columbus, SG100008016

LOUISIANA

Caldwell Parish

Graves Homeplace, 281 Davis Lake Rd., Columbia vicinity, SG100008005

MICHIGAN

Wayne County

McGhee, Orsel and Minnie, House, (The Civil Rights Movement and the African American Experience in 20th Century Detroit MPS), 4626 Seebaldt St, Detroit, MP100008009

NEW YORK

Erie County

Buffalo Public School #92–PS 92, 340 Fougeron St., Buffalo, SG100008007

OHIO

Hamilton County

United Colored American Cemetery, 4732–4734 Duck Creek Rd. (at corner of 4805 Duck Creek Rd.), Cincinnati, SG100008017

Summit County

Mentzer-Sorrick Farm, 365 Center Rd., New Franklin, SG100008020

SOUTH DAKOTA

Brown County

Blanchard, William C., House, 1016 South Kline St., Aberdeen, SG100008006

VIRGINIA

New Kent County

Shuttlewood, 8830 Saint Peters Ln., New Kent vicinity, SG100008021

Roanoke Independent City

English Gardens, 2325, 2331, 2333, 2339, 2343, 2345, 2349 Memorial Ave. SW, 1208, 1218, 1222, Fauquier St. SW, 2324, 2330, 2332, 2336, 2340, 2346, 2352 Denniston Ave. SW, Roanoke, SG100008022

Staunton Independent City

Staunton Steam Laundry, 110 West Hampton, 709 Hall, and 710 Robertson Sts., Staunton, SG100008023

WISCONSIN

Dane County

Stoughton Municipal Power Plant No.1, 601 South 4th St., Stoughton, SG100008010

WYOMING

Sheridan County

Gable House, (Ranches, Farms, and Homesteads in Wyoming, 1860–1960 MPS), 142 SR Buffalo Creek Rd., Wyarno, MP100008015

In the interest of preservation, a SHORTENED comment period has been requested for the following resource:

OHIO

Stark County

Portage Street Elementary School, 239 and 301 Portage St., North Canton, SG100008013, Comment period: 3 days

A request for removal has been made for the following resources:

MICHIGAN

Monroe County

New York Central River Raisin Railroad Bridge, (City of Monroe MRA), Across River Raisin, east of Winchester St., Monroe, OT82005048

Wayne County

Fort Street-Pleasant Street and Norfolk & Western Railroad Viaduct, (Highway Bridges of Michigan MPS), Fort St. over Pleasant St. and N&W RR., Detroit, OT00000116

St. Boniface Roman Catholic Church, 2356 Vermont Ave., Detroit, OT89000487

Additional documentation has been received for the following resource:

ARKANSAS

Pulaski County

Governor's Mansion Historic District (Additional Documentation), Bounded by the Mansion grounds, 13th, Center, Gaines, and 18th Sts., Little Rock, AD78000620

Authority: Section 60.13 of 36 CFR part 60.

Dated: July 12, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2022–15288 Filed 7–15–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–19]

Faris Abusharif, M.D.; Decision and Order

On March 2, 2022, the Administrator, Drug Enforcement Administration (hereinafter, DEA), issued an Order to Show Cause and Immediate Suspension of Registration (hereinafter, OSC/ISO) to Faris Abusharif, M.D. (hereinafter, Respondent) of Orland Park, Illinois. OSC/ISO, at 1 and 6. The OSC/ISO notified Respondent of the immediate suspension of his Certificate of Registration No. BA8201775 because ''[his] continued registration constitutes 'an imminent danger to the public health or safety.' '' *Id.* at 1 (citing 21 U.S.C. 824(d)). Pursuant to 21 U.S.C. 824(a)(4), the OSC/ISO also proposed the revocation of Respondent's Certificate of Registration No. BA8201775 because ''[his] continued registration is inconsistent with the public interest, as that term is defined in 21 U.S.C. 823(f).'' *Id.*

The OSC/ISO alleged that from at least February 10, 2017, through at least January 5, 2022, Respondent ''issued numerous prescriptions for controlled substances to five individuals outside of the usual course of professional practice and not for a legitimate medical purpose.'' *Id.* at 3. The OSC/ISO also alleged that during an interview by DEA on July 22, 2021, Respondent admitted to ordering Adderall from his distributor and taking it himself without a prescription as well as to prescribing Ritalin and tramadol to himself between November 14, 2020, and February 27, 2021 in violation of state law. *Id.* at 2–3. Regarding Respondent's alleged misconduct, the OSC/ISO alleged violations of 21 CFR 1306.04(a) and 7 Ill. Adm. Code § 3100.380. *Id.* at 2.

Pursuant to 21 U.S.C. 824(d) and 21 CFR 1301.36(e), the OSC/ISO immediately suspended Respondent's Certificate of Registration No. BA8201775 after a preliminary finding that Respondent's continued registration was inconsistent with the public interest and that Respondent's continued registration during the pendency of the proceedings would

constitute an imminent danger to the public health or safety. *Id.* at 5.

The OSC/ISO notified Respondent of the right to request a hearing on the allegations or to submit a written statement while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 5–6 (citing 21 CFR 1301.43).

By letter dated March 21, 2022, Respondent requested a hearing [1] and argued that his prescribing was consistent with the public interest, part of the usual course of professional practice, and only for legitimate medical purposes. Request for Hearing, at 1. The Office of Administrative Law Judges put the matter on the docket and assigned it to Chief Administrative Law Judge John J. Mulrooney, II (hereinafter, the Chief ALJ). On March 21, 2022, the Chief ALJ issued an Order for Prehearing Statements. On March 23, 2022, the Government submitted a Motion to Exceed Page Limit, Opposed Motion for Summary Disposition, and Unopposed Motion for Continuance (hereinafter, Motion for Summary Disposition). In its Motion for Summary Disposition, the Government alleged that on March 18, 2022, after the OSC/ISO had already been served, the State of Illinois Department of Financial and Professional Regulation issued a temporary suspension of Respondent's state medical license. Motion for Summary Disposition, at 1. The Government provided documentation to support its claim and argued that, accordingly, Respondent's lack of state authority formed an independent basis to revoke Respondent's registration. *Id.; see also id.* Government Exhibit (hereinafter, GX) 3–5. The Government concluded by requesting that its Motion for Summary Disposition be granted and Respondent's registration be revoked based on Respondent's lack of state authority. Motion for Summary Disposition, at 7–8.

The Government is not required to issue an amended OSC to notice an allegation of a registrant's lack of state authority that arises during the pendency of a proceeding regarding a DEA registration. *Hatem M. Ataya, M.D.,* 81 FR 8221, 8244 (2016). Previous Agency decisions have stated that because the possession of state authority is a prerequisite for obtaining and maintaining a registration, the issue of state authority can be raised at any stage of a proceeding. *See Ataya,* 81 FR at 8244; *Joe M. Morgan, D.O.,* 78 FR 61,961, 61,973–74 (2013). Nonetheless, in such cases, a registrant must be provided with a meaningful opportunity to contest the allegation. *See, e.g., Lawrence E. Stewart, M.D.,* 86 FR 15,257, 15,257 (2021); *Cypress Creek Pharmacy LLC,* 86 FR 71,927, 71,927 (2021); *Lesly Pompy, M.D.,* 84 FR 57,749, 57,749–50 (2019); *Ataya,* 81 FR at 8245; *Morgan,* 78 FR at 61,973–74.

On March 24, 2022, the Chief ALJ issued an Order Granting Leave to File a Motion With an Oversized Attachment, Setting a Briefing Schedule, and Modifying the Order for Prehearing Statements (hereinafter, Briefing Schedule). In the Briefing Schedule, Respondent was given the opportunity to file a reply to the Government's allegation that he currently lacks state authority to handle controlled substances. Briefing Schedule, at 1. On April 1, 2022, Respondent filed his Response to Drug Enforcement Administration's Opposed Motion for Summary Disposition (hereinafter, Response). In his Response, Respondent argued that the Government's Motion for Summary Disposition should be denied because the suspension of Respondent's state medical license was based on ''unproven allegations—not facts'', and a hearing on the merits had not yet occurred. Response, at 2–3. Further, Respondent argued that he had had no truly meaningful opportunity to refute the Government's claims because the Government had based its Motion for Summary Disposition on ''unproven and unsubstantiated allegations.'' *Id.* at 3.

On April 5, 2022, the Chief ALJ issued an Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter, Recommended Decision or RD). In the RD, the Chief ALJ granted the Government's Motion for Summary Disposition, finding that there was no dispute of fact necessitating a hearing. RD, at 6–7. In concluding the RD, the Chief ALJ recommended that Respondent's DEA registration be revoked based on his lack of state authority. *Id.* at 7. By letter dated May 2, 2022, the Chief ALJ certified and transmitted the record to the Agency for final Agency action and advised that neither party filed exceptions.

The Agency agrees with the Chief ALJ and issues this Decision and Order based on the entire record before the Agency. 21 CFR 1301.43(e). The Agency makes the following findings of fact.

Findings of Fact

Respondent's DEA Registration

Respondent is the holder of DEA Certificate of Registration No. BA8201775 at the registered address of 16604 107th St, Orland Park, Illinois 60467. GX 1 (Certificate of Registration). Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Respondent's registration expires on June 30, 2024. *Id.*

The Status of Respondent's State License

On March 18, 2022, the Illinois Department of Financial and Professional Regulation (hereinafter, the Department) issued an Order suspending both Respondent's Illinois medical license and Illinois controlled substance license after finding that ''Respondent's actions constitute[d] an immediate danger to the public.'' GX 5, at 4–5; *see also id.* at 21–22 (Affidavit of S.G.). Respondent was notified that the suspension was temporary and that a hearing would be held on the allegations against him that formed the basis of the suspension. *Id.* at 1–2. According to the Department's Petition for Temporary Suspension, these allegations included, among other things, that Respondent engaged in inappropriate sexual conduct with patients of his private practice, that Respondent inappropriately prescribed controlled substances to patients of his private practice, that Respondent self-prescribed controlled substances, and that Respondent ordered controlled substances from a supplier for his own use without a prescription. *Id.* at 6–14; *see also id.* at 23–54 (Complaint).

According to Illinois online records, of which the Agency takes official notice, Respondent's Illinois medical license is still suspended.[2] Illinois Department of Financial and Professional Regulation License Lookup, *https://online-dfpr.micropact.com/*

[1] The Agency finds that the Government's service of the OSC/ISO was adequate and that the Request for Hearing was timely filed on March 21, 2022.

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

lookup/licenselookup.aspx (last visited date of signature of this Order). Further, Illinois online records show that Respondent's Illinois controlled substance license is also suspended. *Id.*

Accordingly, the Agency finds that Respondent is not currently licensed to engage in the practice of medicine nor registered to dispense controlled substances in Illinois, the state in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617. Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71,371 (quoting *Anne Lazar Thorn,* 62 FR 12,847, 12,848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18,273, 18,274 (2007); *Wingfield Drugs,* 52 FR 27,070, 27,071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Illinois, the state in which he is registered with the DEA.

Pursuant to the Illinois Controlled Substances Act, a ''practitioner'' means ''a physician licensed to practice medicine in all its branches . . . or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.'' 720 Ill. Comp. Stat. Ann. 570/102(kk) (West 2022). Further, the Illinois Controlled Substances Act requires that ''[e]very person who manufactures, distributes, or dispenses any controlled substances . . . must obtain a registration issued by the Department of Financial and Professional Regulation in accordance with its rules.'' *Id.* at 570/302(a). The Illinois Controlled Substances Act also authorizes the Department of Financial and Professional Regulation to discipline a practitioner holding a controlled substance license, stating that ''[a] registration under Section 303 to manufacture, distribute, or dispense a controlled substance . . . may be denied, refused renewal, suspended, or revoked by the Department of Financial and Professional Regulation.'' *Id.* at 570/304(a).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to handle controlled substances in Illinois because both his Illinois medical license and his Illinois controlled substance license are suspended. As already discussed, a practitioner must hold a valid controlled substance license to dispense a controlled substance in Illinois. Thus, because Respondent lacks authority to handle controlled substances in Illinois, Respondent is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in the Administrator by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BA8201775 issued to Faris Abusharif, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Faris Abusharif, M.D. to renew or modify this registration, as well as any other pending application of Faris Abusharif, M.D. for additional registration in Illinois. This Order is effective August 17, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 13, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–15279 Filed 7–15–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) issued during the period of June 1, 2022 through June 30, 2022.

This notice includes summaries of initial determinations such as Affirmative Determinations of Eligibility, Negative Determinations of Eligibility, and Determinations Terminating Investigations of Eligibility within the period. If issued in the period, this notice also includes summaries of post-initial determinations that modify or amend initial determinations such as Affirmative Determinations Regarding Applications for Reconsideration, Negative Determinations Regarding Applications for Reconsideration, Revised Certifications of Eligibility, Revised Determinations on Reconsideration, Negative Determinations on Reconsideration, Revised Determinations on remand from the Court of International Trade, and Negative Determinations on remand from the Court of International Trade.

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued.

TA–W No.	Subject firm	Location	Reason(s)
97,070	Altor Safety	Valley Cottage, NY	Increased Aggregate Imports.
98,106	Safran Cabin Materials, LLC	Ontario, CA	Shift in Production to an FTA Country or Beneficiary.
98,147	Oracle America Inc	Hillsboro, OR	Actual/Likely Increase in Imports following a Shift Abroad.
98,151	Medline Industries, LP, Sterile Procedure Tray	Temecula, CA	Shift in Production to an FTA Country or Beneficiary.
98,175	Boyd Corporation	Portland, OR	Actual/Likely Increase in Imports following a Shift Abroad.
98,201	Molded Acoustical Products of Easton, Inc	Granger, IN	Increased Customer Imports.
98,213	Boyd Corporation	Gaffney, SC	Actual/Likely Increase in Imports following a Shift Abroad.
98,218	Congoleum Flooring	Trenton, NJ	Increased Customer Imports.
98,248	Mountain State Carbon LLC	Follansbee, WV	Upstream Supplier.
98,251	Honeywell Safety Products USA, Inc	Smithfield, RI	Increased Customer Imports.
98,251A	Honeywell Safety Products USA, Inc	Smithfield, RI	Increased Customer Imports.
98,252	KPI Concepts, LLC	West Burlington, IA	Upstream Supplier.
98,267	Roseburg Forest Products	Dillard, OR	Increased Company Imports.
98,275	SSB Manufacturing Plant, Fredericksburg Plant	Fredericksburg, VA	Increased Aggregate Imports.
98,276	The Ames Company Inc, ClosetMaid LLC, ClosetMaid Brand.	Pharr, TX	Shift in Production to an FTA Country or Beneficiary.
98,277	Savant Systems, Inc	Bucyrus, OH	Increased Aggregate Imports.
98,279	Oakley Industries Sub-Assembly Division Inc	Belvidere, IL	Upstream Supplier.
98,280	SSB Manufacturing Company	Clear Lake, IA	Increased Customer Imports.
98,283	Honeywell Safety Products USA, Inc	Franklin, PA	Shift in Production to an FTA Country or Beneficiary.
98,285	Adient PLC	Sycamore, IL	Upstream Supplier.
98,289	Stryker Employment Company, LLC	Lakeland, FL	Shift in Production to an FTA Country or Beneficiary.
98,292	Regal Rexnord Corporation	Monticello, IN	Shift in Production to an FTA Country or Beneficiary.
98,295	Fluid Routing Solutions, LLC	Big Rapids, MI	Shift in Production to an FTA Country or Beneficiary.
98,298	MityLite	Lawrenceburg, TN	Shift in Production to an FTA Country or Beneficiary.
98,301	Worwag Coatings LLC	Lafayette, IN	Shift in Production to an FTA Country or Beneficiary.
98,303	Norgren GT Development LLC	Auburn, WA	Shift in Production to an FTA Country or Beneficiary.
98,313	TE Connectivity	Andover, MN	Shift in Production to an FTA Country or Beneficiary.
98,315	BCS Automotive Interface Systems	Winona, MN	Shift in Production to an FTA Country or Beneficiary.
98,319	EcoWater Systems LLC	Woodbury, MN	Actual/Likely Increase in Imports following a Shift Abroad.
98,321	Premier Glass USA, LLC	Park Hills, MO	Increased Customer Imports.
98,322	Eagle's Catch, LLLP	Ellsworth, IA	Increased Aggregate Imports.
98,341	Advanced Input Systems	Frankenmuth, MI	Actual/Likely Increase in Imports following a Shift Abroad.
98,342	R.A. Phillips Industries, Inc	Santa Fe Springs, CA	Shift in Production to an FTA Country or Beneficiary.
98,343	Prevost Car, Prevost Canada, Volvo Group	Plattsburgh, NY	Shift in Production to an FTA Country or Beneficiary.

Negative Determinations for Trade Adjustment Assistance

The following investigations revealed that the eligibility criteria for TAA have not been met for the reason(s) specified.

TA–W No.	Subject firm	Location	Reason(s)
96,863	Jetech, Inc	Battle Creek, MI	No Shift in Production or Other Basis.
97,026	Keurig Green Mountain, Inc	Essex Junction, VT	No Sales or Service Decline or Other Basis.
97,026A	Keurig Green Mountain, Inc	Waterbury, VT	No Employment Decline or Threat of Separation or ITC.
97,026B	Keurig Green Mountain, Inc	Waterbury, VT	No Sales or Service Decline or Other Basis.
97,026C	Keurig Green Mountain, Inc	Waterbury, VT	No Sales or Service Decline or Other Basis.
97,026D	Keurig Green Mountain, Inc	Waterbury, VT	No Shift in Services or Other Basis.
97,026E	Keurig Green Mountain, Inc	Williston, VT	No Shift in Production or Other Basis.
97,044	Sonwil Distribution Center, Inc	Orchard Park, NY	No Sales or Service Decline or Other Basis.
97,044A	Sonwil Distribution Center, Inc	Depew, NY	No Sales or Service Decline or Other Basis.
97,044B	Sonwil Distribution Center, Inc	Buffalo, NY	No Sales or Service Decline or Other Basis.
98,056	Prototron Circuits, Inc	Redmond, WA	No Import Increase and/or Production Shift Abroad.
98,169	Alexander Dennis Inc, NFI Group Inc	Nappanee, IN	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,170	Alexander Dennis Inc, NFI Group Inc	Peru, IN	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,191	Portland General Electric Company	Boardman, OR	Workers Do Not Produce an Article.
98,192	VHS Huron Valley-Sinai Hospital, Inc	Commerce Charter Township, MI.	Workers Do Not Produce an Article.
98,192A	VHS Detroit Receiving Hospital, Inc	Detroit, MI	Workers Do Not Produce an Article.
98,192B	VHS Harper-Hutzel Hospital, Inc	Detroit, MI	Workers Do Not Produce an Article.
98,192C	VHS Rehabilitation Institute of Michigan	Detroit, MI	Workers Do Not Produce an Article.
98,192D	VHS Sinai-Grace Hospital, Inc	Detroit, MI	Workers Do Not Produce an Article.
98,198	Spectranetics LLC	Colorado Springs, CO	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,204	Luminant Power LLC	North Bend, OH	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,215	ON Semiconductor Corporation	Pocatello, ID	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,217	Anointed Hands Janitorial Services LLC	Suffolk, VA	Workers Do Not Produce an Article.
98,221	LG Electronics USA, Solar	Huntsville, AL	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,227	Peloton Interactive, Inc	Portland, OR	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,233	Prudential Financial, Enabling Solutions—Service Operations.	El Paso, TX	Workers Do Not Produce an Article.
98,234	Grindmaster Corporation, Electrolux Professional, AB.	Louisville, KY	No Import Increase and/or Production Shift Abroad.
98,235	First Call Resolution, LLC	Eugene, OR	Workers Do Not Produce an Article.
98,235A	First Call Resolution, LLC	Roseburg, OR	Workers Do Not Produce an Article.
98,235B	First Call Resolution, LLC	Roseburg, OR	Workers Do Not Produce an Article.
98,235C	First Call Resolution, LLC	Independence, OR	Workers Do Not Produce an Article.
98,235D	First Call Resolution, LLC	Grants Pass, OR	Workers Do Not Produce an Article.
98,235E	First Call Resolution, LLC	Coos Bay, OR	Workers Do Not Produce an Article.
98,235F	First Call Resolution, LLC	Veneta, OR	Workers Do Not Produce an Article.
98,236	GenOn Energy Services, LLC	Springdale, PA	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,242	Peloton Interactive, Inc, Supply Chain/Final Mile	Farmingdale, NY	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,243	Peloton Interactive, Inc	Mt Vernon, NY	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,244	Peloton Interactive, Inc	Port Washington, NY	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,249	Fastenal Company	Cranston, RI	No Employment Decline.
98,250	Ronstan International Inc, Ronstan Properties Pty Ltd.	Portsmouth, RI	Workers Do Not Produce an Article.
98,254	Yeti Coolers, LLC	Austin, TX	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,255	Leisure Pools USA Trading, Inc	Burlington, IA	No Import Increase and/or Production Shift Abroad.

TA–W No.	Subject firm	Location	Reason(s)
98,256	Cardinal Health Norfolk Manufacturing Facility	Norfolk, NE	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,260	John C. Heath Attorney at Law, PC, Lexington Law Firm.	Phoenix, AZ	Workers Do Not Produce an Article.
98,262	Sanofi US Services Inc	New York, NY	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,265	Peloton Interactive, Inc	Warren, MI	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,271	Grass Valley USA, LLC., Support Agreement Sales.	Grass Valley, CA	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,272	Peloton Interactive, Inc	Plano, TX	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,273	ReedGroup Management LLC, Benefits Account Management.	Westminster, CO	Workers Do Not Produce an Article.
98,288	Avaya Inc, Sales, Sales Support, and Account Management Services.	Thornton, CO	Workers Do Not Produce an Article.
98,290	Terex Corporation	Westport, CT	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,291	Peloton Interactive Inc	Dayton, OH	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,294	EuropTec USA, Inc	Clarksburg, WV	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,296	Mueller Brass Company	Belding, MI	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,299	DS Services of America, Inc, dba Primo Water North America.	Culver, OR	No Import Increase and/or Production Shift Abroad.
98,300	Stanley Black & Decker, Inc	New Britain, CT	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,302	Exel Inc d/b/a DHL Supply Chain	Mount Clemens, MI	Workers Do Not Produce an Article.
98,304	AECOM Technical Services	Denver, CO	Workers Do Not Produce an Article.
98,306	Nokia of America Corporation	Coppell, TX	Workers Do Not Produce an Article.
98,307	TSK Innovations Company	El Paso, TX	Workers Do Not Produce an Article.
98,308	TaskUs USA LLC	New Braunfels, TX	Workers Do Not Produce an Article.
98,312	KPMG LLP	Montvale, NJ	Workers Do Not Produce an Article.
98,312A	KPMG LLP	Atlanta, GA	Workers Do Not Produce an Article.
98,312B	KPMG LLP	Dallas, TX	Workers Do Not Produce an Article.
98,314	Transform Holdco LLC	Hoffman Estates, IL	Workers Do Not Produce an Article.
98,314A	Transform Holdco LLC	Fort Lauderdale, FL	Workers Do Not Produce an Article.
98,314B	Transform Holdco LLC	Key West, FL	Workers Do Not Produce an Article.
98,316	Draken International LLC	Lakeland, FL	Workers Do Not Produce an Article.
98,317	Peloton Interactive, Inc	Lakeland, FL	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,323	Massachusetts Mutual Life Insurance Company	Springfield, MA	Workers Do Not Produce an Article.
98,324	Palisades Power Plant	Covert, MI	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,326	Electronic Arts Inc	Austin, TX	No Sales or Production Decline/Shift in Production (Domestic Transfer).
98,329	Kerry Inc	Clark, NJ	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,330	Thule, Inc	Seymour, CT	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,334	SASOL Chemicals (USA) LLC, Oil City Plant, Sasol (USA) Corporation.	Oil City, PA	Predominant Cause of Layoffs Unrelated to Imports, Shift in Production to Beneficiary Country, or Increase in Imports Following a Shift.
98,335	BioReliance Corporation	Rockville, MD	Workers Do Not Produce an Article.
98,337	Wells Fargo	Frederick, MD	Workers Do Not Produce an Article.

Determinations Terminating Investigations for Trade Adjustment Assistance

The following investigations were terminated for the reason(s) specified.

TA–W No.	Subject firm	Location	Reason(s)
98,286	Dometic Corporation	LaGrange, IN	Invalid Petition.
98,327	Heartland Construction	Georgetown, TX	Invalid Petition.
98,333	Parkdale Mills	Galax, VA	Invalid Petition.

Revised Determinations on Reconsideration

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued.

TA–W No.	Subject firm	Location	Reason(s)
95,738	Precision Aluminum, Inc	Wadsworth, OH	Customer Imports of Articles.
96,116	Motorola Mobility LLC	Chicago, IL	Shift in Services to a Foreign Country.
96,803	Wabtec Corporation	Wilmerding, PA	Secondary Component Supplier.
96,950	Dometic Corporation	Elkhart, IN	Shift in Production to a Foreign Country.

Negative Determinations on Reconsideration

The following negative determinations on reconsideration have been issued because the eligibility criteria for TAA have not been met for the reason(s) specified.

TA–W No.	Subject firm	Location	Reason(s)
95,580	Philadelphia Energy Solutions Refining and Marketing LLC.	Philadelphia, PA	No Shift in Production or Other Basis.
97,007	T-Mobile USA, Inc	Honolulu, HI	No Shift in Services or Other Basis.

I hereby certify that the aforementioned determinations were issued during the period of June 1, 2022, through June 30, 2022. These determinations are available on the Department's website *https://www.dol.gov/agencies/eta/tradeact* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 7th day of July 2022.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2022–15253 Filed 7–15–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents notice of investigations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) started during the period of June 1, 2022 through June 30, 2022.

This notice includes instituted initial investigations following the receipt of validly filed petitions. Furthermore, if applicable, this notice includes investigations to reconsider negative initial determinations or terminated initial investigations following the receipt of a valid application for reconsideration.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. Any persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than ten days after publication in **Federal Register**.

Initial Investigations

The following are initial investigations commenced following the receipt of a properly filed petition.

TA–W No.	Subject firm	Location	Inv start date
98,315	BCS Automotive Interface Systems	Winona, MN	6/2/2022
98,316	Draken International LLC	Lakeland, FL	6/2/2022
98,317	Peloton Interactive, Inc	Lakeland, FL	6/2/2022
98,318	Tree Top, Inc	Medford, OR	6/2/2022

TA–W No.	Subject firm	Location	Inv start date
98,319	EcoWater Systems LLC	Woodbury, MN	6/3/2022
98,320	Otis Worldwide Corporation	Farmington, CT	6/3/2022
98,321	Premier Glass USA, LLC	Park Hills, MO	6/3/2022
98,322	Eagle's Catch, LLLP	Ellsworth, IA	6/6/2022
98,323	Massachusetts Mutual Life Insurance Company	Springfield, MA	6/6/2022
98,324	Palisades Power Plant	Covert, MI	6/7/2022
98,325	Aisin Electronics, Inc	Stockton, CA	6/10/2022
98,326	Electronic Arts Inc	Austin, TX	6/13/2022
98,327	Heartland Construction	Georgetown, TX	6/13/2022
98,328	Parkdale Mills Plant #39	Alexander City, AL	6/13/2022
98,329	Kerry Inc	Clark, NJ	6/14/2022
98,330	Thule, Inc	Seymour, CT	6/14/2022
98,331	Tripwire	Portland, OR	6/14/2022
98,332	Medline Industries, Inc	Lithia Springs, GA	6/15/2022
98,333	Parkdale Mills	Galax, VA	6/15/2022
98,334	SASOL Chemicals (USA) LLC, Oil City Plant, Sasol (USA) Corporation.	Oil City, PA	6/15/2022
98,335	BioReliance Corporation	Rockville, MD	6/17/2022
98,336	Imerys Carbonates USA	Cockeysville, MD	6/17/2022
98,337	Wells Fargo	Frederick, MD	6/17/2022
98,338	Wisetek Solutions	Hyattsville, MD	6/17/2022
98,339	Boston Scientific Company	San Jose, CA	6/22/2022
98,340	Small Wells Vehicle Electronics	Fond du Lac, WI	6/22/2022
98,341	Advanced Input Systems	Frankenmuth, MI	6/23/2022
98,342	R.A. Phillips Industries, Inc	Santa Fe Springs, CA	6/23/2022
98,343	Prevost Car, Prevost Canada, Volvo Group	Plattsburgh, NY	6/23/2022
98,344	PayPal, Inc	LaVista, NE	6/24/2022
98,345	IEE Sensing, Inc	Auburn Hills, MI	6/27/2022
98,346	Urschel Tool Company	Cranston, RI	6/28/2022
98,347	Vestas Towers America, Inc	Pueblo, CO	6/29/2022
98,348	Waupaca Foundry, Inc	Etowah, TN	6/29/2022
98,349	Medical Component Specialists, Inc	Providence, RI	6/30/2022
98,350	Michael Food	David City, NE	6/30/2022
98,351	Mitsubishi Electric Automotive America, Inc	Maysville, KY	6/30/2022
98,352	Solar Seal LLC	South Easton, MA	6/30/2022

A record of these investigations and petitions filed are available, subject to redaction, on the Department's website *https://www.dol.gov/agencies/eta/tradeact* under the searchable listing or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 7th day of July 2022.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2022–15254 Filed 7–15–22; 8:45 am]

BILLING CODE 4510–FN–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–609; NRC–2013–0235]

Northwest Medical Isotopes, LLC Medical Radioisotope Production Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Termination of construction permit.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is terminating the Northwest Medical Isotopes, LLC (NWMI) Medical Radioisotope Production Facility (RPF) construction permit (permit) designated as CPMIF–002. The permit authorized NWMI to construct the RPF in Columbia, Missouri. Construction was not initiated for the RPF, and nuclear materials were never procured or possessed under this permit. Consequently, the RPF site is approved for unrestricted use.

DATES: The letter terminating Construction Permit No. CPMIF–002 was issued on July 11, 2022.

ADDRESSES: Please refer to Docket ID NRC–2013–0235 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2013–0235. 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.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *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. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Balazik, Office of Nuclear Reactor Regulation, U.S. Nuclear

Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2856; email: *Michael.Balazik@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 9, 2018, the NRC issued Construction Permit No. CPMIF–002 to NWMI to authorize the construction of the RPF. Since the issuance of the permit, NWMI has not begun construction of the RPF or procured nuclear materials for use under the permit. By letter dated February 7, 2022, NWMI stated that the RPF will not be constructed and requested that the NRC terminate Construction Permit No. CPMIF–002. NWMI also stated that no physical or principal activities authorized by the permit, other than a geotechnical survey, were performed at the permitted site at Lot 15 of Discovery Ridge in Columbia, Missouri. The geotechnical survey was required by condition 3.G of the permit and consisted of borings used to determine the local soil stratigraphy. NWMI further stated that no other work was conducted at the site and that the University of Missouri continues to own the land, which remains undeveloped.

II. License Termination

Termination of licenses and permits issued under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) is governed by 10 CFR 50.82, ''Termination of license.'' As discussed in ''Current NRC Staff Views on Applying the Deferred Plant Policy Statement to Part 52 Plants,'' the NRC staff does not apply the requirements for license termination in 10 CFR 50.82 to facilities that have not begun operation. Additionally, there was no construction associated with the NWMI RPF permit and nuclear materials were never procured or possessed under the permit. As such, with no radiological contamination associated with the permit, the RPF site may be released for unrestricted use pursuant to 10 CFR 20.1402, ''Radiological criteria for unrestricted use.''

III. Environmental Review

NWMI seeks to terminate the RPF permit for which construction never commenced and nuclear materials were never procured or brought on site. Terminating a construction permit is a licensing action that would ordinarily require an environmental assessment under 10 CFR 51.21, ''Criteria for and identification of licensing and regulatory actions requiring environmental assessments,'' unless a categorical exclusion in 10 CFR 51.22, ''Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review,'' paragraph (c) applies and no special circumstances under 10 CFR 51.22(b) exist. Actions listed in 10 CFR 51.22(c) were previously found by the Commission to be part of a category of actions that ''does not individually or cumulatively have a significant effect on the human environment.''

The categorical exclusion identified in 10 CFR 51.22(c)(20) is:

Decommissioning of sites where licensed operations have been limited to the use of—

(i) Small quantities of short-lived radioactive materials;

(ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or

(iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1) and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

This categorical exclusion encompasses decommissioning of sites where contamination from radioactive materials is determined to be nominal.

In the case of the NWMI RPF, no associated radiological contamination exists because construction never commenced and nuclear material was never procured or brought on site. As a result, a decommissioning plan for this site is not required by subparagraph (g)(1) of 10 CFR 30.36, ''Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas,'' subparagraph (g)(1) of 10 CFR 40.42, ''Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas,'' or subparagraph (g)(1) of 10 CFR 70.38, ''Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas,'' and the site meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis. Further, no special circumstances under 10 CFR 51.22(b) exist. The factors listed in 10 CFR 51.22(c)(20) are consistent with the circumstances here because there is no environmental impact associated with terminating the NWMI RPF permit, which is even less than the nominal impacts anticipated by the categorical exclusion. Therefore, application of the categorical exclusion to the termination of the NWMI RPF permit is warranted. Consequently, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the termination of Construction Permit No. CPMIF–002.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document	ADAMS accession No.
U.S. Nuclear Regulatory Commission, Northwest Medical Isotopes, LLC—Termination of Construction Permit No. CPMIF–002 (EPID No. L–2022–LLL–0007), dated July 11, 2022.	ML22147A157
Northwest Medical Isotopes, LLC, Request for Termination of Northwest Medical Isotopes, LLC (NWMI) Construction Permit No. CPMIF–002 (Docket No. 50–609), dated February 7, 2022.	ML22084A004
U.S. Nuclear Regulatory Commission, Construction Permit No. CPMIF–002 for Northwest Medical Isotopes, LLC, Docket No. 50–609, Medical Radioisotope Production Facility, dated May 9, 2018.	ML18037A468
U.S. Nuclear Regulatory Commission, Current NRC Staff Views on Applying the Deferred Plant Policy Statement to Part 52 Plants, dated March 6, 2018.	ML18065B257

V. Conclusion

As previously discussed, the Commission has determined that the NWMI RPF permit termination request meets the categorical exclusion criteria set forth in 10 CFR 51.22(c)(20) and that the unrestricted use criteria pursuant to 10 CFR 20.1402 are met.

The Commission grants NWMI's request to terminate Construction Permit No. CPMIF–002. This license termination was effective upon NWMI's

receipt of the NRC's termination letter, dated July 11, 2022.

Dated: July 13, 2022.

For the Nuclear Regulatory Commission.

Joshua M. Borromeo,

Chief, Non-Power Production and Utilization Facility Licensing Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–15282 Filed 7–15–22; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, July 21, 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: July 14, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–15399 Filed 7–14–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–464, OMB Control No. 3235–0527]

Submission for OMB Review; Comment Request; Extension: Rule 7d–2

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts (''Canadian retirement accounts''). These accounts, which operate in a manner similar to individual retirement accounts in the United States, encourage retirement savings by permitting savings on a tax-deferred basis. Individuals who establish Canadian retirement accounts while living and working in Canada and who later move to the United States (''Canadian-U.S. Participants'' or ''participants'') often continue to hold their retirement assets in their Canadian retirement accounts rather than prematurely withdrawing (or ''cashing out'') those assets, which would result in immediate taxation in Canada.

Once in the United States, however, these participants historically have been unable to manage their Canadian retirement account investments. Most investment companies (''funds'') that are ''qualified companies'' for Canadian retirement accounts are not registered under the U.S. securities laws. Securities of those unregistered funds, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirement of the Investment Company Act of 1940 (''Investment Company Act'').[1] As a result of this registration requirement, Canadian-U.S. Participants previously were not able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

The Commission issued a rulemaking in 2000 that enabled Canadian-U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian-U.S. Participants and sales to Canadian retirement accounts.[2] Rule 7d–2 under the Investment Company Act [3] permits foreign funds to offer securities to Canadian-U.S. Participants and sell securities to Canadian retirement accounts without registering as investment companies under the Investment Company Act.

Rule 7d–2 contains a ''collection of information'' requirement within the meaning of the Paperwork Reduction Act of 1995.[4] Rule 7d–2 requires written offering materials for securities offered or sold in reliance on that rule to disclose prominently that those securities and the fund issuing those securities are not registered with the Commission, and that those securities and the fund issuing those securities are exempt from registration under U.S. securities laws. Rule 7d–2 does not require any documents to be filed with the Commission.

Rule 7d–2 requires written offering documents for securities offered or sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and may not be offered or sold in the United States unless registered or exempt from registration under the U.S. securities laws, and also to disclose prominently that the fund that issued the securities is not registered with the Commission. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer,

[1] 15 U.S.C. 80a. In addition, the offering and selling of securities that are not registered pursuant to the Securities Act of 1933 (''Securities Act'') is generally prohibited by U.S. securities laws. 15 U.S.C. 77.

[2] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)]. This rulemaking also included new rule 237 under the Securities Act, permitting securities of foreign issuers to be offered to Canadian-U.S. Participants and sold to Canadian retirement accounts without being registered under the Securities Act. 17 CFR 230.237.

[3] 17 CFR 270.7d–2.

[4] 44 U.S.C. 3501–3502.

underwriter, or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The staff estimates that there are 4,312 publicly offered Canadian funds that potentially would rely on the rule to offer securities to participants and sell securities to their Canadian retirement accounts without registering under the Investment Company Act.[5] The staff estimates that all of these funds have previously relied upon the rule and have already made the one-time change to their offering documents required to rely on the rule. The staff estimates that 216 (5 percent) additional Canadian funds would newly rely on the rule each year to offer securities to Canadian-U.S. Participants and sell securities to their Canadian retirement accounts, thus incurring the paperwork burden required under the rule. The staff estimates that each of those funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 648 offering documents. The staff therefore estimates that 216 respondents would make 648 responses by adding the new disclosure statement to 648 written offering documents. The staff therefore estimates that the annual burden associated with the rule 7d–2 disclosure requirement would be 108 hours (648 offering documents × 10 minutes per document). The total annual cost of these burden hours is estimated to be $49,140 (108 hours × $455 per hour of attorney time).[6]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. 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 control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by September 16, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 12, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15226 Filed 7–15–22; 8:45 am]

BILLING CODE 8011–01–P

[5] Investment Company Institute, 2021 Investment Company Fact Book (2021) at 276, tbl. 66, *available at https://www.ici.org/system/files/2021-05/2021_factbook.pdf.* Since the last renewal, we understand that the Investment Company Institute has changed its methodology to enhance the accuracy of how it estimates the number of Canadian funds. The estimate used for this renewal reflects this change in methodology and the number of estimated Canadian funds has increased from the last renewal.

[6] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (''SIFMA''). The $455 per hour figure for an Attorney is based on SIFMA's Management & Professional Earnings in the Securities Industry 2013, updated for 2022, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. As discussed in footnote 5, since the last renewal, we understand that the Investment Company Institute has changed its methodology to enhance the accuracy of how it estimates the number of Canadian funds. The estimate used for this renewal reflects this change in methodology and the hourly burden has increased from the last renewal.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95258; File No. SR–MIAX–2022–24]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Extend the Waiver Period for Certain Non-Transaction Fees and To Extend the SPIKES Options Market Maker Incentive Program Until September 30, 2022

July 12, 2022.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2022, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to: (1) extend the waiver period for certain non-transaction fees applicable to Market Makers[3] that trade solely in Proprietary Products[4] until September 30, 2022; and (2) extend the SPIKES Options Market Maker Incentive Program (the ''Incentive Program'') until September 30, 2022.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[4] The term ''Proprietary Product'' means a class of options that is listed exclusively on the Exchange. *See* Exchange Rule 100.

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (1) extend the waiver period for certain non-transaction fees applicable to Market Makers that trade solely in Proprietary Products until September 30, 2022; and (2) extend the Incentive Program until September 30, 2022.

Background

On October 12, 2018, the Exchange received approval from the Commission to list and trade on the Exchange options on the SPIKES® Index, a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust (commonly known and referred to by its ticker symbol, ''SPY'').[5] The Exchange adopted its initial SPIKES options transaction fees on February 15, 2019 and adopted a new section of the Fee Schedule—Section (1)(a)(xi), SPIKES—for those fees.[6] Options on the SPIKES Index began trading on the Exchange on February 19, 2019.

On May 31, 2019, the Exchange filed its first proposal in a series of proposals with the Commission to amend the Fee Schedule to waive certain non-transaction fees applicable to Market Makers that trade solely in Proprietary Products (including options on the SPIKES Index) beginning September 30, 2019, through June 30, 2022.[7] In particular, the Exchange adopted fee waivers for Membership Application fees, monthly Market Maker Trading Permit fees, Application Programming Interface (''API'') Testing and Certification fees for Members,[8] and monthly MIAX Express Interface (''MEI'') Port [9] fees assessed to Market Makers that trade solely in Proprietary Products (including options on SPIKES) throughout the entire period of September 30, 2019 through June 30, 2022. The Exchange now proposes to extend the waiver period for the same non-transaction fees applicable to Market Makers that trade solely in Proprietary Products (including options on SPIKES) until September 30, 2022. In particular, the Exchange proposes to waive Membership Application fees, monthly Market Maker Trading Permit fees, Member API Testing and Certification fees, and monthly MEI Port fees assessed to Market Makers that trade solely in Proprietary Products (including options on SPIKES) until September 30, 2022.

Membership Application Fees

The Exchange currently assesses a one-time Membership Application fee for applications of potential Members. The Exchange assesses a one-time Membership Application fee on the earlier of (i) the date the applicant is certified in the membership system, or (ii) once an application for MIAX membership is finally denied. The one-time application fee is based upon the applicant's status as either a Market Maker or an Electronic Exchange Member (''EEM'').[10] A Market Maker is assessed a one-time Membership Application fee of $3,000.

The Exchange proposes that the waiver for the one-time Membership Application fee of $3,000 for Market Makers that trade solely in Proprietary Products (including options on SPIKES) will be extended from June 30, 2022 until September 30, 2022, which the Exchange proposes to state in the Fee Schedule. The purpose of this proposed change is to continue to provide an incentive for potential Market Makers to submit membership applications, which should result in an increase of potential liquidity in Proprietary Products, including options on SPIKES. Even though the Exchange proposes to extend the waiver of this particular fee, the overall structure of the fee is outlined in the Fee Schedule so that there is general awareness that the Exchange intends to assess such a fee after September 30, 2022.

Trading Permit Fees

The Exchange issues Trading Permits that confer the ability to transact on the Exchange. MIAX Trading Permits are issued to Market Makers and EEMs. Members receiving Trading Permits during a particular calendar month are assessed monthly Trading Permit fees as set forth in the Fee Schedule. As it relates to Market Makers, MIAX currently assesses a monthly Trading Permit fee in any month the Market Maker is certified in the membership system, is credentialed to use one or more MIAX MEI Ports in the production environment and is assigned to quote in one or more classes. MIAX assesses the monthly Market Maker Trading Permit fee for its Market Makers based on the greatest number of classes listed on MIAX that the MIAX Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurements. A MIAX Market Maker is assessed a monthly Trading Permit Fee according to the following table: [11]

[5] *See* Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR–MIAX–2018–14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade on the Exchange Options on the SPIKES® Index).

[6] *See* Securities Exchange Release No. 85283 (March 11, 2019), 84 FR 9567 (March 15, 2019) (SR–MIAX–2019–11). The Exchange initially filed the proposal on February 15, 2019 (SR–MIAX–2019–04). That filing was withdrawn and replaced with SR–MIAX–2019–11. On September 30, 2020, the Exchange filed its proposal to, among other things, reorganize the Fee Schedule to adopt new Section 1)b), Proprietary Products Exchange Fees, and moved the fees and rebates for SPIKES options into new Section 1)b)i). *See* Securities Exchange Act Release No. 90146 (October 9, 2020), 85 FR 65443 (October 15, 2020) (SR–MIAX–2020–32); Securities Exchange Act Release No. 90814 (December 29, 2020), 86 FR 327 (January 5, 2021) (SR–MIAX–2020–39).

[7] *See* Securities Exchange Act Release Nos. 86109 (June 14, 2019), 84 FR 28860 (June 20, 2019) (SR–MIAX–2019–28); 87282 (October 10, 2019), 84 FR 55658 (October 17, 2019) (SR–MIAX–2019–43); 87897 (January 6, 2020), 85 FR 1346 (January 10, 2020) (SR–MIAX–2019–53); 89289 (July 10, 2020), 85 FR 43279 (July 16, 2020) (SR–MIAX–2020–22); 90146 (October 9, 2020), 85 FR 65443 (October 15, 2020) (SR–MIAX–2020–32); 90814 (December 29, 2020), 86 FR 327 (January 5, 2021) (SR–MIAX–2020–39); 91498 (April 7, 2021), 86 FR 19293 (April 13, 2021) (SR–MIAX–2021–06); 93881 (December 30, 2021), 87 FR 517 (January 5, 2022) (SR–MIAX–2021–63).

[8] 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.

[9] Full Service MEI Ports provide Market Makers with the ability to send Market Maker simple and complex quotes, eQuotes, and quote purge messages to the MIAX System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine. *See* Fee Schedule, note 27.

[10] The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[11] *See* Fee Schedule, Section(3)(b).

Type of trading permit	Monthly MIAX trading permit fee	Market Maker assignments (the lesser of the applicable measurements below) Ω	
		Per class	% of national average daily volume
Market Maker (includes RMM, LMM, PLMM).	$7,000.00	Up to 10 Classes	Up to 20% of Classes by volume.
	12,000.00	Up to 40 Classes	Up to 35% of Classes by volume.
	*17,000.00	Up to 100 Classes	Up to 50% of Classes by volume.
	*22,000.00	Over 100 Classes	Over 50% of Classes by volume up to all Classes listed on MIAX.

Ω Excludes Proprietary Products.

*For these Monthly MIAX Trading Permit Fee levels, if the Market Maker's total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be $15,500 instead of the fee otherwise applicable to such level.

MIAX proposes that the waiver for the monthly Trading Permit fee for Market Makers that trade solely in Proprietary Products (including options on SPIKES) will be extended from June 30, 2022, to September 30, 2022, which the Exchange proposes to state in the Fee Schedule. The purpose of this proposed change is to continue to provide an incentive for Market Makers to provide liquidity in Proprietary Products on the Exchange, which should result in increasing potential order flow and volume in Proprietary Products, including options on SPIKES. Even though the Exchange proposes to extend the waiver of this particular fee, the overall structure of the fee is outlined in the Fee Schedule so that there is general awareness to potential Members seeking a Trading Permit that the Exchange intends to assess such a fee after September 30, 2022.

The Exchange also proposes that Market Makers who trade Proprietary Products (including options on SPIKES) along with multi-listed classes will continue to not have Proprietary Products (including SPIKES) counted toward those Market Makers' class assignment count or percentage of total national average daily volume. This exclusion is noted with the symbol ''Ω'' following the table that shows the monthly Trading Permit fees currently assessed to Market Makers in Section (3)(b) of the Fee Schedule.

API Testing and Certification Fee

The Exchange assesses an API Testing and Certification fee to all Members depending upon Membership type. An API makes it possible for Members' software to communicate with MIAX software applications, and is subject to Members testing with, and certification by, MIAX. The Exchange offers four types of interfaces: (i) the Financial Information Exchange Port (''FIX Port''),[12] which enables the FIX Port user (typically an EEM or a Market Maker) to submit simple and complex orders electronically to MIAX; (ii) the MEI Port, which enables Market Makers to submit simple and complex electronic quotes to MIAX; (iii) the Clearing Trade Drop Port (''CTD Port''),[13] which provides real-time trade clearing information to the participants to a trade on MIAX and to the participants' respective clearing firms; and (iv) the FIX Drop Copy Port (''FXD Port''),[14] which provides a copy of real-time trade execution, correction and cancellation information through a FIX Port to any number of FIX Ports designated by an EEM to receive such messages.

API Testing and Certification fees for Market Makers are assessed (i) initially per API for CTD and MEI ports in the month the Market Maker has been credentialed to use one or more ports in the production environment for the tested API and the Market Maker has been assigned to quote in one or more classes, and (ii) each time a Market Maker initiates a change to its system that requires testing and certification. API Testing and Certification fees will not be assessed in situations where the Exchange initiates a mandatory change to the Exchange's system that requires testing and certification. The Exchange currently assesses a Market Maker an API Testing and Certification fee of $2,500. The API Testing and Certification fees represent costs incurred by the Exchange as it works with each Member for testing and certifying that the Member's software systems communicate properly with MIAX's interfaces.

MIAX proposes to extend the waiver of the API Testing and Certification fee for Market Makers that trade solely in Proprietary Products (including options on SPIKES) from June 30, 2022 until September 30, 2022, which the Exchange proposes to state in the Fee Schedule. The purpose of this proposed change is to continue to provide an incentive for potential Market Makers to develop software applications to trade in Proprietary Products, including options on SPIKES. Even though the Exchange proposes to extend the waiver of this particular fee, the overall structure of the fee is outlined in the Fee Schedule so that there is general awareness that the Exchange intends to assess such a fee after September 30, 2022.

MEI Port Fees

MIAX assesses monthly MEI Port fees to Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class. The amount of the monthly MEI Port fee is based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, and upon the class volume percentages set forth in the table below. The class volume percentage is based on the total national average daily volume

[12] A FIX Port is an interface with MIAX systems that enables the Port user (typically an Electronic Exchange Member or a Market Maker) to submit simple and complex orders electronically to MIAX. *See* Fee Schedule, note 24.

[13] Clearing Trade Drop (''CTD'') provides Exchange members with real-time clearing trade updates. The updates include the Member's clearing trade messages on a low latency, real-time basis. The trade messages are routed to a Member's connection containing certain information. The information includes, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); (v) Exchange Member Participant Identifier (''MPID'') for each side of the transaction, including Clearing Member MPID; and (vi) strategy specific information for complex transactions. CTD Port Fees will be assessed in any month the Member is credentialed to use the CTD Port in the production environment. *See* Fee Schedule, Section (5)(d)iii.

[14] The FIX Drop Copy Port (''FXD'') is a messaging interface that will provide a copy of real-time trade execution, trade correction and trade cancellation information for simple and complex orders to FIX Drop Copy Port users who subscribe to the service. FIX Drop Copy Port users are those users who are designated by an EEM to receive the information and the information is restricted for use by the EEM only. FXD Port Fees will be assessed in any month the Member is credentialed to use the FXD Port in the production environment. *See* Fee Schedule, Section (5)(d)iv.

in classes listed on MIAX in the prior calendar quarter. Newly listed option classes are excluded from the calculation of the monthly MEI Port fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume. The Exchange assesses MIAX Market Makers the monthly MEI Port fee based on the greatest number of classes listed on MIAX that the MIAX Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement. MIAX assesses MEI Port fees on Market Makers according to the following table: [15]

Monthly MIAX MEI fees	Market Maker assignments (the lesser of the applicable measurements below) Ω	
	Per class	% of national average daily volume
$5,000.00	Up to 5 Classes	Up to 10% of Classes by volume.
$10,000.00	Up to 10 Classes	Up to 20% of Classes by volume.
$14,000.00	Up to 40 Classes	Up to 35% of Classes by volume.
$17,500.00*	Up to 100 Classes	Up to 50% of Classes by volume
$20,500.00*	Over 100 Classes	Over 50% of Classes by volume up to all Classes listed on MIAX.

Ω Excludes Proprietary Products.
* For these Monthly MIAX MEI Fees levels, if the Market Maker's total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be $14,500 instead of the fee otherwise applicable to such level.

MIAX proposes to extend the waiver of the monthly MEI Port fee for Market Makers that trade solely in Proprietary Products (including options on SPIKES) from June 30, 2022 until September 30, 2022, which the Exchange proposes to state in the Fee Schedule. The purpose of this proposal is to continue to provide an incentive to Market Makers to connect to MIAX through the MEI Port such that they will be able to trade in MIAX Proprietary Products. Even though the Exchange proposes to extend the waiver of this particular fee, the overall structure of the fee is outlined in the Fee Schedule so that there is general awareness that the Exchange intends to assess such a fee after September 30, 2022.

The Exchange notes that for the purposes of this proposed change, other Market Makers who trade MIAX Proprietary Products (including options on SPIKES) along with multi-listed classes will continue to not have Proprietary Products (including SPIKES) counted toward those Market Makers' class assignment count or percentage of total national average daily volume. This exclusion is noted by the symbol ''Ω'' following the table that shows the monthly MEI Port Fees currently assessed for Market Makers in Section (5)(d)(ii) of the Fee Schedule.

The proposed extension of the fee waivers are targeted at market participants, particularly market makers, who are not currently members of MIAX, who may be interested in being a Market Maker in Proprietary Products on the Exchange. The Exchange estimates that there are fewer than ten (10) such market participants that could benefit from the extension of these fee waivers. The proposed extension of the fee waivers does not apply differently to different sizes of market participants, however the fee waivers do only apply to Market Makers (and not EEMs).

Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations that other market participants do not have. Further, Market Makers have added market making and regulatory requirements, which normally do not apply to other market participants. For example, Market Makers have obligations to maintain continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and to not make bids or offers or enter into transactions that are inconsistent with a course of dealing. Accordingly, the Exchange believes it is reasonable and not unfairly discriminatory to continue to offer the fee waivers to Market Makers because the Exchange is seeking additional liquidity providers for Proprietary Products, in order to enhance liquidity and spreads in Proprietary Products, which is traditionally provided by Market Makers, as opposed to EEMs.

Incentive Program Extension

On September 30, 2021, the Exchange filed its initial proposal to implement a SPIKES Options Market Maker Incentive Program for SPIKES options to incentivize Market Makers to improve liquidity, available volume, and the quote spread width of SPIKES options beginning October 1, 2021, and ending December 31, 2021.[16] Technical details regarding the Incentive Program were published in a Regulatory Circular on September 30, 2021.[17] On October 12, 2021, the Exchange withdrew SR–MIAX–2021–45 and refiled its proposal to implement the Incentive Program to provide additional details.[18] In that filing, the Exchange specifically noted that the Incentive Program would expire at the end of the period (December 31, 2021) unless the Exchange filed another 19b–4 Filing to amend the fees (or extend the Incentive Program).[19]

On December 23, 2021, the Exchange filed its proposal to extend the Incentive Program until March 31, 2022.[20] In that filing, the Exchange specifically noted that the Incentive Program would expire at the end of the period (March 31, 2022) unless the Exchange filed another 19b–4 Filing to amend the fees (or extend the Incentive Program).[21] On March 23, 2022, the Exchange filed its proposal to extend the Incentive Program until June 30, 2022.[22] In that filing, the Exchange specifically noted that the Incentive Program would expire at the end of the period (June 30, 2022) unless the Exchange filed another 19b–

[15] *See* Fee Schedule (5)(d)(ii).

[16] *See* SR–MIAX–2021–45.

[17] *See* MIAX Options Regulatory Circular 2021–56, SPIKES Options Market Maker Incentive Program (September 30, 2021) available at *https://www.miaxoptions.com/sites/default/files/circularfiles/MIAX_Options_RC_2021_56.pdf.*

[18] *See* Securities Exchange Act Release No. 93424 (October 26, 2021), 86 FR 60322 (November 1, 2021) (SR–MIAX–2021–49).

[19] *See id.,* at note 4.

[20] *See* Securities Exchange Act Release No. 93881 (December 30, 2021), 87 FR 517 (January 5, 2022) (SR–MIAX–2021–63).

[21] *See id.,* at note 20.

[22] *See* Securities Exchange Act Release No. 94574 (April 1, 2022), 87 FR 20492 (April 7, 2022) (SR–MIAX–2022–12).

4 Filing to amend the fees (or extend the Incentive Program).[23] The Exchange now proposes to extend the Incentive Program for three months, with the Incentive Program ending on September 30, 2022.[24]

The Exchange proposes to extend the Incentive Program for SPIKES options to continue to incentivize Market Makers to improve liquidity, available volume, and the quote spread width of SPIKES options. Currently, to be eligible to participate in the Incentive Program, a Market Maker must meet certain minimum requirements related to quote spread width in certain in-the-money (ITM) and out-of-the-money (OTM) options as determined by the Exchange and communicated to Members via Regulatory Circular.[25] Market Makers must also satisfy a minimum time in the market in the front 2 expiry months of 70%, and have an average quote size of 25 contracts. The Exchange established two separate incentive compensation pools that are used to compensate Market Makers that satisfy the criteria pursuant to the Incentive Program.

The first pool (Incentive 1) has a total amount of $40,000 per month, which is allocated to Market Makers that meet the minimum requirements of the Incentive Program. Market Makers are required to meet minimum spread width requirements in a select number of ITM and OTM SPIKES option contracts as determined by the Exchange and communicated to Members via Regulatory Circular.[26] A complete description of how the Exchange calculates the minimum spread width requirements in ITM and OTM SPIKES options can be found in the published Regulatory Circular.[27] Market Makers are also required to maintain the minimum spread width, described above, for at least 70% of the time in the front two (2) SPIKES options contract expiry months and maintain an average quote size of at least 25 SPIKES options contracts. The amount available to each individual Market Maker is capped at $10,000 per month for satisfying the minimum requirements of the Incentive Program. In the event that more than four Market Makers meet the requirements of the Incentive Program, each qualifying Market Maker is entitled to receive a pro-rated share of the $40,000 monthly compensation pool dependent upon the number of qualifying Market Makers in that particular month.

The second pool (Incentive 2 Pool) is capped at a total amount of $100,000 per month which is used during the Incentive Program to further incentivize Market Makers who meet or exceed the requirements of Incentive 1 (''qualifying Market Makers'') to provide tighter quote width spreads. The Exchange ranks each qualifying Market Maker's quote width spread relative to each other qualifying Market Maker's quote width spread. Market Makers with tighter spreads in certain strikes, as determined by the Exchange and communicated to Members via Regulatory Circular,[28] are eligible to receive a pro-rated share of the compensation pool as calculated by the Exchange and communicated to Members via Regulatory Circular,[29] not to exceed $25,000 per Member per month. Qualifying Market Makers are ranked relative to each other based on the quality of their spread width (*i.e.,* tighter spreads are ranked higher than wider spreads) and the Market Maker with the best quality spread width receives the highest rebate, while other eligible qualifying Market Makers receive a rebate relative to their quality spread width.

The Exchange now proposes to extend the Incentive Program until September 30, 2022. The Exchange does not propose to make any amendments to how it calculates any of the incentives provided for in Incentive Pools 1 or 2. The details of the Incentive Program can continue to be found in the Regulatory Circular that was published on September 30, 2021 to all Exchange Members.[30] The purpose of this extension is to continue to incentivize Market Makers to improve liquidity, available volume, and the quote spread width of SPIKES options. The Exchange will announce the extension of the Incentive Program to all Members via a Regulatory Circular.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[31] in general, and furthers the objectives of Section 6(b)(4) of the Act[32] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that the proposal to extend the fee waiver period for certain non-transaction fees for Market Makers that trade solely in Proprietary Products is an equitable allocation of reasonable fees because the proposal continues to waive non-transaction fees for a limited period of time in order to enable the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants in MIAX's Proprietary Products, including options on SPIKES. The Exchange believe the proposed extension of the fee waivers is fair and equitable and not unreasonably discriminatory because it applies to all market participants not currently registered as Market Makers at the Exchange. Any market participant may choose to satisfy the additional requirements and obligations of being a Market Maker and trade solely in Proprietary Products in order to qualify for the fee waivers.

The Exchange believes that the proposed extension of the fee waivers is equitable and not unfairly discriminatory for Market Makers as compared to EEMs because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations that other market participants do not have. Further, Market Makers have added market making and regulatory requirements, which normally do not apply to other market participants. For example, Market Makers have obligations to maintain continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and to not make bids or offers or enter into transactions that are inconsistent with a course of dealing.

The Exchange believes it is reasonable and equitable to continue to waive the one-time Membership Application Fee, monthly Trading Permit Fee, API Testing and Certification Fee, and monthly MEI Port Fee for Market Makers that trade solely in Proprietary Products (including options on SPIKES) until September 30, 2022, since the waiver of such fees provides incentives to interested market participants to

[23] *See id.,* at note 12.

[24] The Exchange notes that at the end of the extension period, the Incentive Program will expire unless the Exchange files another 19b–4 Filing to amend the terms or extend the Incentive Program.

[25] *See supra* note 17.

[26] *See id.*

[27] *See id.*

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(4) and (5).

trade in Proprietary Products. This should result in increasing potential order flow and liquidity in MIAX Proprietary Products, including options on SPIKES.

The Exchange believes it is reasonable and equitable to continue to waive the API Testing and Certification fee assessable to Market Makers that trade solely in Proprietary Products (including options on SPIKES) until September 30, 2022, since the waiver of such fees provides incentives to interested Members to develop and test their APIs sooner. Determining system operability with the Exchange's system will in turn provide MIAX with potential order flow and liquidity providers in Proprietary Products.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory that Market Makers who trade in Proprietary Products along with multi-listed classes will continue to not have Proprietary Products counted toward those Market Makers' class assignment count or percentage of total national average daily volume for monthly Trading Permit Fees and monthly MEI Port Fees in order to incentivize existing Market Makers who currently trade in multi-listed classes to also trade in Proprietary Products, without incurring certain additional fees.

The Exchange believes that the proposed extension of the fee waivers constitutes an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The proposed extension of the fee waivers means that all prospective market makers that wish to become Market Maker Members of the Exchange and quote solely in Proprietary Products may do so and have the above-mentioned fees waived until September 30, 2022. The proposed extension of the fee waivers will continue to not apply to potential EEMs because the Exchange is seeking to enhance the quality of its markets in Proprietary Products through introducing more competition among Market Makers in Proprietary Products. In order to increase the competition, the Exchange believes that it must continue to waive entry type fees for such Market Makers. EEMs do not provide the benefit of enhanced liquidity which is provided by Market Makers, therefore the Exchange believes it is reasonable and not unfairly discriminatory to continue to only offer the proposed fee waivers to Market Makers (and not EEMs). Further, the Exchange believes it is reasonable and not unfairly discriminatory to continue to exclude Proprietary Products from an existing Market Maker's permit fees and port fees, in order to incentive such Market Makers to quote in Proprietary Products. The amount of a Market Maker's permit and port fee is determined by the number of classes quoted and volume of the Market Maker. By excluding Proprietary Products from such fees, the Exchange is able to incentivize Market Makers to quote in Proprietary Products. EEMs do not pay permit and port fees based on the classes traded or volume, so the Exchange believes it is reasonable, equitable, and not unfairly discriminatory to only offer the exclusion to Market Makers (and not EEMs).

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to extend the Incentive Program for Market Makers in SPIKES options. The Incentive Program is reasonably designed because it will continue to incentivize Market Makers to provide quotes and increased liquidity in select SPIKES options contracts. The Incentive Program is reasonable, equitably allocated and not unfairly discriminatory because all Market Makers in SPIKES options may continue to qualify for Incentive 1 and Incentive 2, dependent upon each Market Maker's quoting in SPIKES options in a particular month. Additionally, if a SPIKES Market Maker does not satisfy the requirements of Incentive Pool 1 or 2, then it simply will not receive the rebate offered by the Incentive Program for that month.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to offer this financial incentive to SPIKES Market Makers because it will continue to benefit all market participants trading in SPIKES. SPIKES options is a Proprietary Product on the Exchange and the continuation of the Incentive Program encourages SPIKES Market Makers to satisfy a heightened quoting standard, average quote size, and time in market. A continued increase in quoting activity and tighter quotes may yield a corresponding increase in order flow from other market participants, which benefits all investors by deepening the Exchange's liquidity pool, potentially providing greater execution incentives and opportunities, while promoting market transparency and improving investor protection.

The Exchange believes that the Incentive Program is equitable and not unfairly discriminatory because it will continue to promote an increase in SPIKES options liquidity, which may facilitate tighter spreads and an increase in trading opportunities to the benefit of all market participants. The Exchange believes it is reasonable to operate the Incentive Program for a continued limited period of time to strengthen market quality for all market participants. The resulting increased volume and liquidity will benefit those Members who are eligible to participate in the Incentive Program and will also continue to benefit those Members who are not eligible to participate in the Incentive Program by providing more trading opportunities and tighter spreads.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes that the proposal to extend certain of the non-transaction fee waivers until September 30, 2022 for Market Makers that trade solely in Proprietary Products would increase intra-market competition by incentivizing new potential Market Makers to quote in Proprietary Products, which will enhance the quality of quoting and increase the volume of contracts in Proprietary Products traded on MIAX, including options on SPIKES. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity for the Exchange's Proprietary Products. Enhanced market quality and increased transaction volume in Proprietary Products that results from the anticipated increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes for each separate type of market participant (new Market Makers and existing Market Makers) will be assessed equally to all such market participants. While different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market Makers have quoting obligations that other market participants (such as EEMs) do not have.

The Exchange believes that the proposed extension of the Incentive Program would continue to increase

intra-market competition by incentivizing Market Makers to quote SPIKES options, which will continue to enhance the quality of quoting and increase the volume of contracts available to trade in SPIKES options. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity for SPIKES options. Enhanced market quality and increased transaction volume in SPIKES options that results from the anticipated increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

Inter-Market Competition

The Exchange does not believe that the proposed rule changes will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed extension of the fee waivers and the extension of the Incentive Program apply only to the Exchange's Proprietary Products (including options on SPIKES), which are traded exclusively on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[33] and Rule 19b–4(f)(2)[34] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2022–24 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–2022–24. 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–2022–24 and should be submitted on or before August 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15221 Filed 7–15–22; 8:45 am]

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[33] 15 U.S.C. 78s(b)(3)(A)(ii).

[34] 17 CFR 240.19b–4(f)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95263; File No. SR–MRX–2022–04]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Withdrawal of Proposed Rule Change To Amend MRX's Pricing Schedule at Options 7 To Assess Membership, Port and Market Data Fees

July 12, 2022.

On May 2, 2022, Nasdaq MRX, LLC (''MRX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934[1] and Rule 19b–4 thereunder,[2] a proposed rule change to assess membership, port and market data fees. The proposed rule change was published for comment in the **Federal Register** on May 18, 2022.[3]

On June 29, 2022, MRX withdrew the proposed rule change (SR–MRX–2022–04).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15218 Filed 7–15–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95259; File No. SR–CboeBZX–2022–037]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend BZX Rule 11.17, Clearly Erroneous Executions

July 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 11, 2022, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305.

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend BZX Rule 11.17, Clearly Erroneous Executions. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend BZX Rule 11.17, Clearly Erroneous Executions. Specifically, the Exchange proposes to: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during Regular Trading Hours,[3] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'') [4] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[5] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands [6] around the open and close of trading.

Proposal To Make the Clearly Erroneous Pilot Permanent

On September 10, 2010, the Commission approved, on a pilot basis, changes to BZX Rule 11.17 that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[7] In 2013, the Exchange adopted a provision designed to address the operation of the LULD Plan.[8] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[9] These changes are currently scheduled to operate for a pilot period that would end at the close of business on July 20, 2022.[10]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.'' [11] In the 12 years since that time, the Exchange and other national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience, the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [12] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to Members and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[13] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to amend the clearly erroneous rules at

[3] The term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* BZX Rule 1.5(w).

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[5] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment Eighteen'').

[6] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[7] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–BATS–2010–016).

[8] *See* Securities Exchange Act Release No. 68797 (Jan. 31, 2013), 78 FR 8635 (Feb. 6, 2013) (SR–BATS–2013–008).

[9] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–BATS–2014–014).

[10] *See* Securities Exchange Act Release No. 94749 (April 19, 2022), 87 FR 24352 (April 25, 2022) (SR–CboeBZX–2022–028).

[11] *See* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–BATS–2010–016).

[12] *Id.*

[13] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

that time.[14] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016 status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [15]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during Regular Trading Hours. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Regular Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for Members and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during Regular Trading Hours. Thus, trades during the Exchange's Early Trading,[16] Pre-Opening,[17] or After Hours Sessions [18] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Early Trading, Pre-Opening, or After Hours Sessions would continue to be reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during pre- and post-market trading sessions would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of Regular Trading Hours because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of Regular Trading Hours.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during Regular Trading Hours. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment Eighteen to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[19] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during Regular Trading Hours. As the Participants to the LULD Plan explained in Amendment Eighteen: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment Eighteen narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during Regular Trading Hours.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during Regular Trading Hours. Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of Regular Trading Hours, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during Regular Trading Hours would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) of Rule 11.17 will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[20] Similarly, there are instances, such as the opening auction on the primary listing market,[21] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that

[14] *Id.*

[15] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov//emsac/recommendations-rulemaking-market-quality.pdf.*

[16] The term ''Early Trading Session'' means the time between 7:00 a.m. and 8:00 a.m. Eastern Time. *See* BZX Rule 1.5(ee).

[17] The term ''Pre-Opening Session'' means the time between 8:00 a.m. and 9:30 a.m. Eastern Time. *See* BZX Rule 1.5(r).

[18] The term ''After Hours Trading Session'' means the time between 4:00 p.m. and 8:00 p.m. Eastern Time. *See* BZX Rule 1.5(c).

[19] *See* Amendment Eighteen, supra note 5.

[20] *See* Appendix A of the LULD Plan.

[21] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during Regular Trading Hours would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to BZX Rule 11.17(g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during Regular Trading Hours when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during Regular Trading Hours would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[22] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2) below, by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[23] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50
2. The security opens at $5, with LULD bands at $4.50 × $5.50
3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares
4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous

Example 2

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD
2. BCDE opens at $50 in the belief it is the same company as ABCD
3. The theoretical values of the two companies are ABCD $40 and BCDE $10
4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous

Example 3

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20
2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry
3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[24] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22
2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22
3. During the Trading Pause, the buy order causing the Trading Pause is cancelled
4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote
5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.* a quote was resting on the book

[22] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

[23] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

[24] *See* LULD Plan, Section I(U) and V(C)(1).

prior to the Trading Pause), is widely set at $10 × $90
6. The Reference Price upon resumption is $50 (mid-point of BBO)
7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt)
8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause
9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous

In all of the foregoing situations, investors would be left with no remedy to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Today, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during Regular Trading Hours, or during the Early Trading, Pre-Opening and After Hours Sessions. With respect to Regular Trading Hours, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during Regular Trading Hours, Early Trading, Pre-Opening and After-Hours Trading Session, trades are deemed clearly erroneous if the execution price exceeds the Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier.

Given the changes described in this proposed rule change, the Exchange proposes to amend the way that the Numerical Guidelines are calculated during Regular Trading Hours in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the Numerical Guidelines applicable to leveraged ETF/ETN securities during Regular Trading Hours. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during Regular Trading Hours, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during Regular Trading Hours. However, as no Price Bands are available outside of Regular Trading Hours, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during Early Trading, Pre-Opening and After-Hours Trading.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Early Trading, Pre-Opening and After Hours Sessions. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[25] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Early Trading, Pre-Opening or After-Hours Session or are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to

[25] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

System Disruption or Malfunction

To conform with the structural changes descried above, the Exchange proposes to remove paragraph 11.17(f), System Disruption or Malfunction, combine paragraph (c)(1)(C) with paragraph (c)(1)(B), and remove the reference to a trading halt in paragraph (c)(1)(C) to make clear that Trading Halts are subject to proposed paragraph (j). Specifically, as described in proposed paragraph (c)(1)(B) above, transactions occurring during Regular Trading Hours that are executed outside of the LULD Price Bands due to an Exchange technology or system issue, may be subject to clearly erroneous review pursuant to proposed paragraphs 11.17(g). Proposed paragraph 11.17 (c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

Trade Nullification for UTP Securities That Are the Subject of Initial Public Offerings

Current paragraph (h) of BZX Rule 11.17 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange no longer believes that this provision is necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during Regular Trading Hours.

Securities Subject To Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[26] in general, and Section 6(b)(5) of the Act,[27] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to Members and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during Regular Trading Hours. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment Eighteen serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [28] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during Regular Trading Hours. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] *See* Amendment Eighteen, supra note 5.

section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for Members and investors that trades executed during Regular Trading Hours would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand, and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during Regular Trading Hours and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during Regular Trading Hours. As previously addressed, trades executed during Regular Trading Hours would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to Members and investors that trades will stand if executed during Regular Trading Hours where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBZX–2022–037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2022–037. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–037 and should be submitted on or before August 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15219 Filed 7–15–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95264; File No. SR–MRX–2022–07]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 5 To Add Membership Fees

July 12, 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 June 29, 2022, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend MRX's Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, to assess membership fees.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

MRX proposes to amend its Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, to assess membership fees, which are not assessed today, and which have not been assessed since MRX's inception in 2016.[3] The proposed changes are designed to update fees for MRX's services to reflect their current value—rather than their value when it was a new exchange six years ago—based on MRX's ability to deliver value to its customers through technology, liquidity and functionality. Newly-opened exchanges often charge no fees for certain services such as membership, in order to attract order flow to an exchange, and later amend their fees to reflect the true value of those services.[4] Allowing newly-opened exchanges time to build and sustain market share before charging non-transactional fees encourages market entry and promotes competition. The proposed changes to membership fees within Options 7, Section 5; Other Options Fees and Rebates, are described below.

This proposal reflects MRX's assessment that it has gained sufficient market share to compete effectively against the other 15 options exchanges without waiving fees for membership. These types of fees are assessed by options exchanges that compete with MRX in the sale of exchange services—indeed, MRX is the only options exchange (out of the 16 current options exchanges) not assessing membership fees today. New exchanges commonly waive membership fees to attract market participants, facilitating their entry into the market and, once there is sufficient depth and breadth of liquidity, ''graduate'' to compete against established exchanges and charge fees that reflect the value of their services.[5] If MRX is incorrect in this assessment, that error will be reflected in MRX's ability to compete with other options exchanges.[6]

As noted above, MRX Members are not assessed fees for membership today. Under the proposed fee change, MRX Members will be required to pay a monthly Access Fee, which entitles MRX Members to trade on the Exchange based on their membership type. Specifically, MRX proposes to assess Electronic Access Members[7] an Access Fee of $200 per month, per membership. The Exchange proposes to assess Market Makers[8] Access Fees depending on whether they are a Primary Market Maker (''PMM'') or a Competitive Market Maker (''CMM''). A PMM would be assessed an Access Fee of $200 per month, per membership. A CMM would be assessed an Access Fee of $100 per month, per membership.[9] The proposed fees are identical to access fees on Nasdaq GEMX, LLC (''GEMX'').[10]

In order to receive market making appointments to quote in any options class, CMMs will also be assessed a CMM Trading Right Fee identical to GEMX.[11] CMM trading rights entitle a

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Exchange initially filed the proposed pricing changes on May 2, 2022 (SR–MRX–2022–04) instituting fees for membership, ports and market data. On June 29, 2022, the Exchange withdrew that filing, and submitted separate filings for membership, ports and market data. The instant filing replaces the membership fees set forth in SR–MRX–2022–04.

[4] *See also* Securities Exchange Act Release No. 93927 (January 7, 2022), 87 FR 2191 (January 13, 2022) (SR–MEMX–2021–19) (introduction of membership fees by MEMX).

[5] For example, MIAX Emerald commenced operations as a national securities exchange registered on March 1, 2019. *See* Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (File No. 10–233) (order approving application of MIAX Emerald, LLC for registration as a national securities exchange). MIAX Emerald filed to adopt its transaction fees and certain of its non-transaction fees in its filing SR–EMERALD–2019–15. *See* Securities Exchange Act Release No. 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR–EMERALD–2019–15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the MIAX Emerald Fee Schedule). MIAX Emerald waived its one-time application fee and monthly Trading Permit Fees assessable to EEMs and Market Makers among other fees within SR–EMERALD–2019–15.

[6] Nasdaq recently announced that, beginning in 2022, Nasdaq plans to migrate its North American markets to Amazon Web Services in a phased approach, starting with Nasdaq MRX, a U.S. options market. The proposed fee changes are entirely unrelated to this effort.

[7] The term ''Electronic Access Member'' or ''EAM'' means a Member that is approved to exercise trading privileges associated with EAM Rights. *See* General 1, Section 1(a)(6).

[8] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21). The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12). The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

[9] In the case where a single Member has multiple MRX memberships, the monthly access fee is charged for each membership. For example, if a single member firm is both an EAM and a CMM, or owns multiple CMM memberships, the firm is subject to the access fee for each of those memberships.

[10] *See* GEMX Options 7, Section 6.A. (Access Fees).

[11] *See* GEMX Options 7, Section 6.B. (CMM Trading Rights Fees).

CMM to enter quotes in options symbols that comprise a certain percentage of industry volume. On a quarterly basis, the Exchange assigns points to each options class equal to its percentage of overall industry volume (not including exclusively traded index options), rounded down to the nearest one hundredth of a percentage with a maximum of 15 points. A new listing is assigned a point value of zero for the remainder of the quarter in which it was listed. CMMs may seek appointments to options classes that total 20 points for the first CMM Right it holds, and 10 points for the second and each subsequent CMM Right it holds.[12] In order to encourage CMMs to quote on the Exchange, MRX launched CMM trading rights without any fees, allowing CMMs to freely quote in all options classes.

The Exchange is now proposing to adopt a monthly CMM Trading Rights Fee. Under the proposed fee structure, CMMs will be assessed a Trading Rights Fee of $850 per month for the first trading right, which will entitle the CMM to quote in 20 percent of industry volume.[13] Each additional CMM Right will cost $500 per month, and will entitle the CMM to quote an additional 10 percent of volume. Similar to GEMX's trading rights fee,[14] a new CMM would pay $850 for the first trading right and all CMMs would thereafter pay $500 for each additional trading right. The Exchange is proposing this pricing model because each subsequent CMM Right costs less than the first trading right. All CMMs have the opportunity to purchase additional CMM Rights beyond the initial trading right in order to quote in additional options series. The Exchange notes that it is not proposing trading right fees for PMMs, as the Exchange wishes to encourage Members to act as PMMs, which will benefit the market through, for example, more robust quoting requirements. PMMs have additional obligations on MRX as compared to CMMs.[15] The Exchange is proposing only to charge the $200 access fee to EAMs, and no trading rights fee, as the technical, regulatory, and administrative services associated with an EAM's use of the Exchange are not as comprehensive as those associated with Market Makers' use.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[18] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to the Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for order flow, which constrains its pricing determinations. The fact that the market for order flow is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [19]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention to determine prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [20]

Congress directed the Commission to ''rely on 'competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system.'' [21] As a result, the Commission has historically relied on competitive forces to determine whether a fee proposal is equitable, fair, reasonable, and not unreasonably or unfairly discriminatory. ''If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior.'' [22] Accordingly, ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [23] In its 2019 guidance on fee proposals, Commission staff indicated that they would look at factors beyond the competitive environment, such as cost, only if a ''proposal lacks persuasive evidence that the proposed fee is constrained by significant competitive forces.'' [24]

History of MRX Operations

Over the years, MRX has amended its transactional pricing to remain competitive and attract order flow to the Exchange.[25]

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[12] A CMM may request changes to its appointments at any time upon advance notification to the Exchange in a form and manner prescribed by the Exchange. *See* MRX Options 2, Section 3(c)(3).

[13] These trading rights are referred to as CMM Rights. *See* MRX Options 2, Section 3.

[14] *See* GEMX Options 7, Section 6.B.

[15] PMMs are required to provide two-sided quotations in 90% of cumulative number of seconds, or such higher percentage as the Exchange may announce in advance. In contrast, a CMM is not required to enter quotations in the options classes to which it is appointed; however, if a CMM initiates quoting in an options class, the CMM is required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance. *See* Options 2, Section 5(e)(2). Additionally, PMMs are required to submit a Valid Width Quote to open their assigned options series. *See* Options 3, Section 8(c)(1) and 8(c)(3).

[16] The Exchange notes that all MRX Members may submit orders; however, only Market Makers may submit quotes. The Exchange surveils Market Makers quotes in addition to any orders transacted on MRX and conducts surveillance on Market Maker quotes to ensure these participants have met their quoting and other market making obligations. The regulatory oversight for Market Makers is in addition to the regulatory oversight which is administered for all EAMs.

[17] *See* 15 U.S.C. 78f(b).

[18] *See* 15 U.S.C. 78f(b)(4) and (5).

[19] *See NetCoalition,* 615 F.3d at 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[21] *See NetCoalition,* 615 F.3d at 534–35; *see also* H.R. Rep. No. 94–229 at 92 (1975) (''[I]t is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed.'').

[22] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74,770 (December 9, 2008) (SR–NYSEArca–2006–21).

[23] *Id.*

[24] *See* U.S. Securities and Exchange Commission, ''Staff Guidance on SRO Rule filings Relating to Fees'' (May 21, 2019), available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees.*

[25] *See e.g.* Securities Exchange Act Release Nos. 77292 (March 4, 2016), 81 FR 12770 (March 10, 2016) (SR–ISEMercury–2016–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Schedule of Fees); 77409 (March 21, 2016), 81 FR 16240 (March 25, 2016) (SR–ISEMercury–2016–05) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 81 FR 16238 (March 21, 2016), 81 FR 16238 (March 25, 2016) (SR–ISEMercury–2016–06) (Notice of Filing and

Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 77841 (May 16, 2016), 81 FR 31986 (SR–ISEMercury–2016–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 82537 (January 19, 2018), 83 FR 3784 (January 26, 2018) (SR–MRX–2018–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Introduce a New Pricing Model); 82990 (April 4, 2018), 83 FR 15434 (April 10, 2018) (SR–MRX–2018–10) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IV of the Exchange's Schedule of Fees); 28677 (June 14, 2018), 83 FR 28677 (June 20, 2018) (SR–MRX–2018–19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase Certain Route-Out Fees Set Forth in Section II.A of the Schedule of Fees); 84113 (September 13, 2018), 83 FR 47386 (September 19, 2018) (SR–MRX–2018–27) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Schedule of Fees); 85143 (February 14, 2019), 84 FR 5508 (February 21, 2019) (SR–MRX–2019–02) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Pricing Schedule at Options 7, Section 3); 85313 (March 14, 2019), 84 FR 10357 (March 20, 2019) (SR–MRX–2019–05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to PIM Fees and Rebates); 86326 (July 8, 2019), 84 FR 33300 (July 12, 2019) (SR–MRX–2019–14) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Complex Order Pricing); 88022 (January 23, 2020), 85 FR 5263 (January 29, 2020) (SR–MRX–2020–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend MRX Pricing Schedule); 89046 (June 11, 2020), 85 FR 36633 (June 17, 2020) (SR–MRX–2020–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7); 89320 (July 15, 2020), 85 FR 44135 (July 21, 2020) (SR–MRX–2020–14) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, in Connection With the Pricing for Orders Entered Into the Exchanges Price Improvement Mechanism); 90503 (November 24, 2020), 85 FR 77317 (December 1, 2020) (SR–MRX–2020–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7 for Orders Entered Into the Exchange's Price Improvement Mechanism); 90434 (November 16, 2020), 85 FR 74473 (November 20, 2020) (SR–MRX–2020–19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To the Exchange's Pricing Schedule at Options 7 To Amend Taker Fees for Regular Orders); 90455 (November 18, 2020), 85 FR 75064 (November 24, 2020) (SR–MRX–2020–21) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pricing Schedule); and 91687 (April 27, 2021), 86 FR 23478 (May 3, 2021) (SR–MRX–2021–04) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7). Note that ISE Mercury is an earlier name for MRX.

In June 2019, MRX commenced offering complex orders.[26] With the addition of complex order functionality, MRX offered Members certain order types, an opening process, auction capabilities, and other trading functionality that was nearly identical to functionality available on ISE.[27] By way of comparison, ISE, unlike MRX, assessed membership fees in 2019[28] while offering the same suite of functionality as MRX, with a limited exception.[29]

[26] *See* Securities Exchange Act Release No. 86326 (July 8, 2019), 84 FR 33300 (July 12, 2019) (SR–MRX–2019–14) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Complex Order Pricing).

[27] One distinction is that ISE offered its Members access to Nasdaq Precise in 2019 and since that time. MRX has never offered Precise. ''Nasdaq Precise'' or ''Precise'' is a front-end interface that allows EAMs and their Sponsored Customers to send orders to the Exchange and perform other related functions. Features include the following: (1) order and execution management: enter, modify, and cancel orders on the Exchange, and manage executions (*e.g.,* parent/child orders, inactive orders, and post-trade allocations); (2) market data: access to real-time market data (*e.g.,* NBBO and Exchange BBO); (3) risk management: set customizable risk parameters (*e.g.,* kill switch); and (4) book keeping and reporting: comprehensive audit trail of orders and trades (*e.g.,* order history and done away trade reports). *See* ISE Supplementary Material .03(d) of Options 3, Section 7. Precise is also available on GEMX.

[28] In 2019, ISE assessed the following Access Fees: $500 per month, per membership to an Electronic Access Member, $5,000 per month, per membership to a Primary Market Maker and $2,500 per month, per membership to a Competitive Market Maker. ISE does not assess Trading Rights Fees to Competitive Market Makers. See Securities Exchange Act Release No. 82446 (January 5, 2018), 83 FR 1446 (January 11, 2018) (SR–ISE–2017–112) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Non-Transaction Fees in the Exchange's Schedule of Fees). Of note, ISE assessed Access Fees prior to 2019 as well.

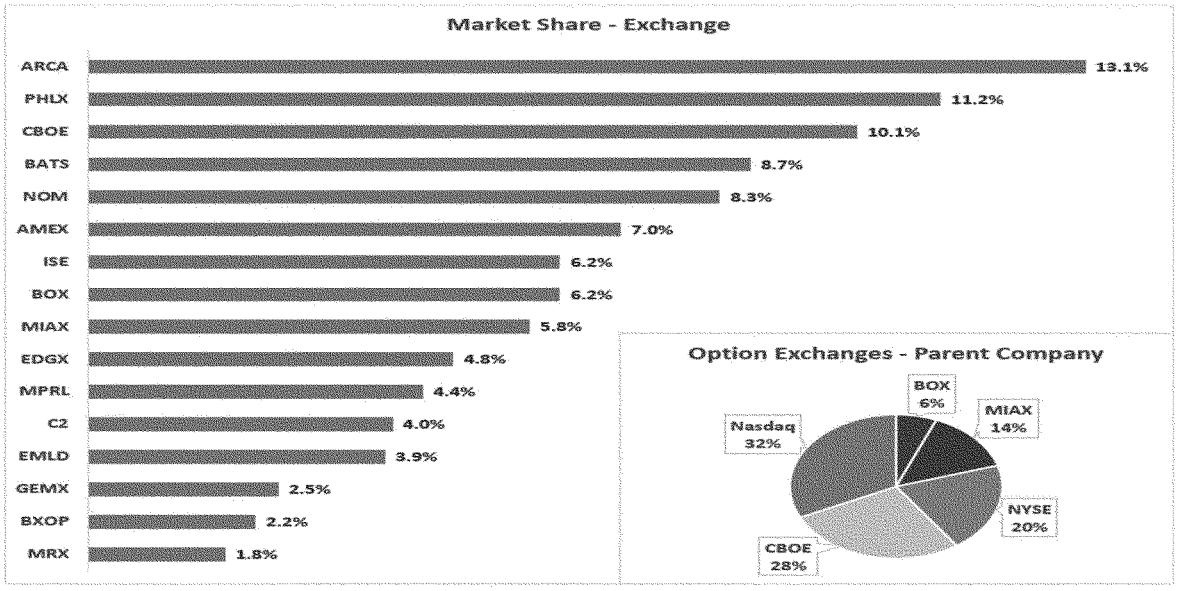
[29] Unlike ISE, MRX does not offer Precise. *See* note 27, *supra.*

Membership Is Subject to Significant Substitution-Based Competitive Forces

An exchange can show that a product is ''subject to significant substitution-based competitive forces'' by introducing evidence that customers can substitute the product for products offered by other exchanges.

Chart 1 below shows the January 2022 market share for multiply-listed options by exchange. Of the 16 operating options exchanges, none currently has more than a 13.1% market share, and MRX has the smallest market share at 1.8%. Customers widely distribute their transactions across exchanges according to their business needs and the ability of each exchange to meet those needs through technology, liquidity and functionality. Average market share for the 16 options exchanges is 6.26 percent, with the median at 5.8, and a range between 1.8 and 13.1 percent.

Chart 1: Market Share by Exchange for January 2022



Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and membership.

Chart 2 below compares the number of firms purchasing memberships from MRX to the number of firms purchasing such services from the four MRX-affiliated options exchanges, GEMX, ISE, The Nasdaq Stock Market LLC (''NOM'') and Nasdaq PHLX, LLC (''Phlx'').

Chart 2: Number of Firms Purchasing Membership and Purchasing Trading Services from Options Venues (March 2022)

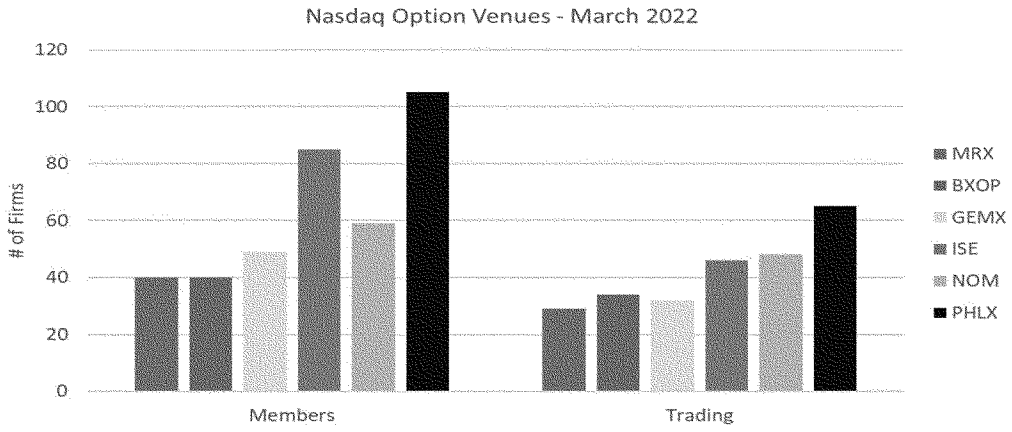


Chart 2 also shows that MRX has the smallest number of Members relative to its GEMX, ISE, NOM and Phlx affiliates, with approximately 40 members. This demonstrates that customers can and will choose where to become members, need not become members of all exchanges, and do not need to become Members of MRX and instead may utilize a third party.[30]

Further, BOX Exchange LLC (''BOX'') recently filed to establish a new monthly Participant Fee.[31] In that rule change BOX noted that it responded to Market Maker feedback to the proposed fees in January 2022 and due to this valuable feedback, BOX lowered the proposed fees.[32] BOX stated that, ''. . . this reduction demonstrates that competitive constraints do not depend on showing that a Market Maker walked away, or threatened to walk away, from

[30] Of course, that third party must itself become a Member of MRX, so at least some market participants must become Members of MRX for any trading to take place at all. Nevertheless, because some firms would be able to exercise the option of not becoming Members, excessive membership fees would cause the Exchange to lose members.

[31] *See* Securities and Exchange Release No. 94894 (May 11, 2022), 87 FR 29987 (May 17, 2022) (SR–BOX–2022–17) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC Facility To Adopt Electronic Market Maker Trading Permit Fees).

[32] *Id* at 29990.

BOX due to a pricing change. Rather, the absence of negative feedback (in and of itself, and particularly when coupled with valuable feedback suggesting modifications or alternatives) is indicative that the proposed fees are, in fact, reasonable and consistent with BOX being subject to competitive forces in setting fees.'' [33]

MRX filed its membership fees on May 2, 2022 and has not received a comment with respect to the proposed membership fee changes. MRX Members may elect to cancel their membership on MRX. No MRX Member is required by rule, regulation, or competitive forces to be a Member on the Exchange.

Further, BOX noted in its rule change that one Market Maker modified their access to BOX since the implementation of the proposed fee change.[34] After the Market Maker reviewed the notice the Exchange issued describing the proposed fees, the Market Maker informed the Exchange that it would terminate its Market Maker status on BOX as it had no intention to provision itself for access.[35] BOX argued in its rule change that,

The Exchange believes this further demonstrates competition within the market for exchange access, which as a result constrains fees the Exchange may charge for that access. The Exchange believes the fact that this Participant chose to terminate its Market Maker status on BOX but retained its status as an Order Flow Provider on BOX demonstrates that market participants can and do alter their membership statuses at exchanges if the market participant deems any fees as too high for its relevant marketplace. In BOX's case, the Participant determined that the Exchange's proposed fees for electronic Market Makers did not make business sense for itself, however it retained its membership as a BOX Participant in a different capacity.

Yet another example of an exchange being subject to significant competitive forces with respect to membership fees was noted in a recent NYSE Arca, Inc. (''NYSE Arca'') rule change.[36] Recently, NYSE Arca filed a rule change to modify the number of option issues a Market Maker may quote per OTP and modify the fees applicable to Market Maker OTPs.[37] In that rule change, NYSE Arca stated that,

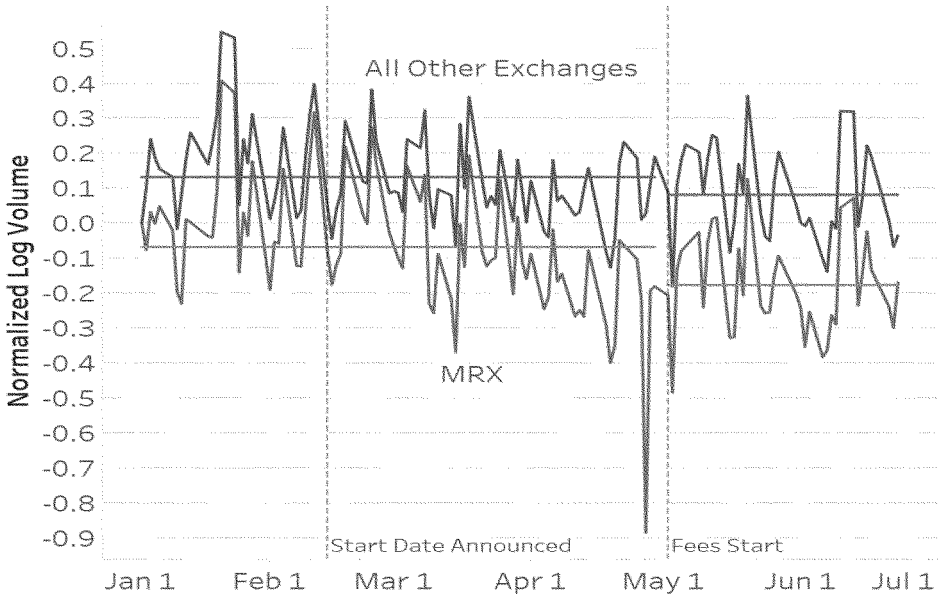
The Exchange has also observed that another options exchange group experienced decreases in market share following its proposed modifications of its access fees (including Market Maker trading permit fees), suggesting that market participants (including Market Makers) are sensitive to changes in exchanges' access fees and may respond by shifting their order flow elsewhere if they deem the fees to be unreasonable or excessive.[38]

Moreover, NYSE Arca noted that it observed that,

. . .exchanges in the MIAX Group introduced multiple access fee increases in July and August 2021. In June 2021, prior to these fee increases, the aggregate MIAX Group share of multi-list options volume was 15.45%. In the months after the introduction of higher access fees, MIAX Group's market share declined: by September 2021, the aggregate MIAX Group market share was 14.50%, and as of March 2022, market share was 13.75%.[39]

Similar to MIAX, Chart 3 below demonstrates that since the inception of its membership, port and market data fees, MRX volumes declined.

Chart 3: MRX Options Volume as Compared to Options Volume on 15 Other Options Exchanges in 2022[40]



[33] *Id* at 29990.

[34] BOX noted that this Market Maker was approved as an electronic Market Maker in 2017 but never underwent the process of provisioning itself to access the BOX systems. *Id* at 29991.

[35] *Id* at 29991.

[36] *See* Securities Exchange Act Release No. 95142 (June 23, 2022), 87 FR 38786 (June 29, 2022) (SR–NYSEArca–2022–36) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule).

[37] *Id.*

[38] *Id* at 38790.

[39] *Id* at note 24.

Specifically, since May 2, 2022, MRX saw a larger drop in its average daily volume (−11%) than all other options exchanges (−5%) since MRX's fees were added on May 2, 2022 when compared to their respective year-to-date volumes through April 29, 2022. This pattern indicates that the adoption of MRX membership, port, and market data fees impacted MRX's volume negatively.

In summary, MRX membership fees are subject to significant substitution-based competitive forces due to its consistently low percentage of market share, the relatively small number of purchasers for each product, and the purchasers that are reviewing their subscriptions. Implementation of the proposed fees is therefore consistent with the Act.

Fees for Membership

The proposed membership fees described below are in line with those of other markets. Setting a fee above competitors is likely to drive away customers, so the most efficient price-setting strategy is to set prices at the same level as other firms.

The Exchange's proposal to adopt membership fees is reasonable, equitable and not unfairly discriminatory. As a self-regulatory organization, MRX's membership department reviews applicants to ensure that each application complies with the rules specified within MRX General 3[41] as well as other requirements for membership.[42] Applicants must meet the Exchange's qualification criteria prior to approval. The membership review includes, but is not limited to, the registration and qualification of associated persons, financial health, the validity of the required clearing relationship, and the history of disciplinary matters. Approved Members would be required to comply with MRX's By-Laws and Rules and would be subject to regulation by MRX. The proposed membership fees are identical to membership fees on GEMX,[43] and are lower than similar fees assessed on other options markets.[44]

The Exchange believes that there are many factors that may cause a market participant to decide to become a member of a particular exchange. Among various factors, the Exchange believes market participants consider: (i) an exchange's available liquidity in options series; (ii) trading functionality offered on a particular market; (iii) product offerings; (iv) customer service on an exchange; and (v) transactional pricing. The Exchange believes that the decision to become a member of an exchange, particularly as a registered market maker, is a complex one that is not solely based on non-transactional costs assessed by an exchange. Market participants weigh the tradeoff between where they choose to deploy liquidity versus where trading opportunities exist. Of course, the cost of membership may factor into a decision to become a member of a certain exchange, but the Exchange believes it is by no means the only factor when comparing exchanges.

Market Makers

Market makers play an important role on options exchanges as they provide liquidity. In options markets, registered market makers are assigned options series[45] and are required to quote in those options series for a specified time period during the day.[46] Typically, a lead or primary market maker[47] will be required to quote for a longer period of time during the day as compared to other market makers registered on an exchange.[48] Additionally, market makers are typically required to quote within a certain width on options markets.[49] Greater liquidity on options markets benefits all market participants by providing more trading opportunities and attracting greater participation by market makers. An increase in the activity of market makers in turn facilitates tighter spreads. Market participants are attracted to options markets that have ample liquidity and tighter spreads in options series.

Trading Functionality

An exchange's trading functionality attracts market participants who may elect, for example, to submit an order into a price improving auction,[50] enter a complex order,[51] or utilize a particular order type.[52] Different options exchanges offer different trading functionality to their members. For example, with respect to priority and allocation of an order book, some options exchanges have price/time allocation,[53] some have a size pro-rata allocation,[54] while other exchanges offer both allocation models.[55] The allocation methodology on a particular options exchange's order book may attract certain market participants. Also, the manner in which some options markets structure their solicitation auction,[56] or opening process,[57] may be attractive to certain market participants. Finally, some exchanges have trading floors[58] which may accommodate trading for certain market participants or trading firms.[59]

Product Offerings

Introducing new and innovative products to the marketplace designed to meet customer demands may attract market participants to a particular

[40] The chart displays the log volume for MRX and all other options exchanges combined. It is ''normalized'' by subtracting each day's value from the first trading day of the year (January 3, 2022). The straight lines represent the average normalized log volumes from January 3, 2022 through April 29, 2022 and from May 2, 2022 through June 23, 2022, respectively.

[41] MRX General 3, Membership and Access, incorporates by reference Nasdaq General 3.

[42] The Exchange's Membership Department must ensure, among other things, that an applicant is not statutorily disqualified.

[43] *See* GEMX Options 7, Section 6A (Access Fees).

[44] *See* Cboe's Fees Schedule. Cboe assesses permit fees as follows: Market-Maker Electronic Access Permit of $5,000 per month; Electronic Access Permits of $3,000 per month; and Clearing TPH Permit of $2,000 per month. *See also* Miami International Securities Exchange, LLC's (''MIAX'') Fee Schedule. MIAX assesses an Electronic Exchange Member Fee of $1,500 per month.

[45] *See* Phlx, ISE, GEMX, MRX, Nasdaq BX, Inc. (''BX'') and NOM Options 2, Section 3; Cboe Exchange, Inc. (''Cboe'') Rule 5.50; BOX Exchange LLC (''BOX'') Rule 8030; MIAX Rule 602; and NYSE Arca, Inc. (''NYSE Arca'') Rule 6.35–O.

[46] *See* ISE, GEMX and MRX, Phlx, BX and NOM Options 2, Section 5; Cboe Rule 5.52; BOX Rule 8050; MIAX Rule 604; and NYSE Arca Rule 6.37A–O.

[47] Options markets refer to the primary market maker on an exchange in several ways.

[48] *See* BX Options 2, Section 4; ISE, GEMX and MRX, and Phlx Options 2, Section 5; BOX Rule 8055; MIAX Rule 604; and NYSE Arca Rule 6.37A–O.

[49] *See* BX Options 2, Section 4; ISE, GEMX and MRX, Phlx and NOM Options 2, Section 5; and Cboe Rule 5.52; BOX Rule 8040.

[50] *See* ISE, GEMX, MRX, Phlx and BX Options 3, Section 13; MIAX Rule 515A; Cboe Rule 5.37; and BOX Rules 7150 and 7245.

[51] *See* Phlx and ISE Options 3, Section 14; MIAX Rule 518; Cboe Rule 5.33; BOX Rule 7240; and NYSE Arca Rule 6.91–O.

[52] *See* ISE, GEMX, MRX, Phlx, BX and NOM Options 3, Section 7; MIAX Rule 615; Cboe Rule 5.6; BOX Rule 7110; and NYSE Arca Rule 6.62–O.

[53] *See* Cboe Rule 5.85; BOX Rule 7130; and NYSE Arca Rule 6.76–O.

[54] *See* Phlx, ISE, GEMX and MRX Options 3, Section 10; and BOX Rule 7135.

[55] *See* BX Options 3, Section 10. While BX's rule permits both price/time and size pro-rata allocation, all symbols on BX are currently designated as Price/Time. *See also* BOX Rules 7130 and 7135. MIAX's rule permits both Price-Time and Pro-Rata allocation. *See also* MIAX Rule 514.

[56] *See* ISE, GEMX and MRX Options 3, Section 11; NYSE American Rules 971.1NY and 971.2NY; and Cboe Rule 5.39.

[57] *See* ISE, GEMX, MRX, Phlx, BX and NOM Options 3, Section 8; Cboe Rule 5.31, MIAX Rule 503, BOX Rule 7070, and NYSE Arca Rule 6.64–O.

[58] Today, Phlx, Cboe, BOX, NYSE Arca, and NYSE American LLC have a trading floor. Trading floors require an on-floor presence to execute options transactions.

[59] There are certain features of open outcry trading that are difficult to replicate in an electronic trading environment. The Exchange has observed, and understands from various market participants, that they have had difficulty executing certain orders, such as larger orders and high-risk and complicated strategies, in an all-electronic trading configuration without the element of human interaction to negotiate pricing for these orders.

options venue. New products in the options industry may allow market participants greater trading and hedging opportunities, as well as new avenues to manage risks. The listing of new options products enhances competition among market participants by providing investors with additional investment vehicles, as well as competitive alternatives, to existing investment products. An exchange's proprietary product offering may attract order flow to a particular exchange to trade a particular options product.[60]

Transaction Pricing

The pricing available on a particular exchange may impact a market participant's decision to submit order flow to a particular options venue. The options industry is competitive. Clear substitutes to the Exchange exist in the market for options security transaction services; the Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely, and often do, shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

With respect to the CMM Trading Rights Fee, the proposed fees compare favorably with those of other options exchanges. For example, a market maker on MIAX is assessed a $3,000 one-time fee and then a tiered monthly fee from $7,000 for up to 10 classes to $22,000 for over 100 classes.[61] By comparison, under the proposed fee structure, a CMM can be granted access on the Exchange for as little as $950 per month (*i.e.,* a $100 access fee and an $850 trading right), and could quote in all options classes on the Exchange by paying the access fee and obtaining nine CMM trading rights for a total of $4,950 per month. The Exchange notes that its tiered model for CMM trading rights is consistent with the pricing practices of other exchanges, such as NYSE Arca, which charges $6,000 per month for the first market maker trading permit, down to $1,000 per month for the fifth and additional trading permits, with various tiers in-between. Like other options exchanges, the Exchange is proposing a tiered pricing model because it may encourage CMM firms to purchase additional trading rights and quote more issues because subsequent trading rights are priced lower than the initial trading right.

The Exchange does not believe that it is unfairly discriminatory to assess different fees for PMMs, CMMs, and EAMs. For PMMs on MRX, the fees required to access the Exchange are substantially lower than those of competing exchanges. For example, a PMM could quote on the Exchange for only $200 (*i.e.,* the access fee), compared with the minimum $6,000 per month trading permit fee charged by NYSE Arca. The Exchange notes that it is not proposing trading right fees for PMMs, as the Exchange wishes to encourage Members to act as PMMs, which will benefit the market through, for example, more robust quoting requirements. Similarly, the Exchange is proposing only to charge the $200 access fee to EAMs as the technical, regulatory, and administrative services associated with an EAM's use of the Exchange are not as comprehensive as those associated with Market Makers. The CMM Trading Right Fee is identical to GEMX.[62]

Membership fees are charged by nearly all exchanges, and all established exchanges with sufficient order flow. In 2022, MEMX LLC (''MEMX'') established a monthly membership fee of $200.[63] MEMX reasoned in that rule change that there is value in becoming a member of the exchange. MEMX stated that it believed that its proposed membership fee ''is not unfairly discriminatory because no broker-dealer is required to become a member of the Exchange.'' Moreover, ''neither the trade-through requirements under Regulation NMS nor broker-dealers' best execution obligations require a broker-dealer to become a member of every exchange.'' In this respect, MEMX is correct; a monthly membership fee is reasonable, equitably allocated and not unfairly discriminatory. Market participants may choose to become a member of one or more options exchanges based on the market participant's business model. A very small number of market participants choose to become a member of all sixteen options exchanges. It is not a requirement for market participants to become members of all options exchanges, in fact, certain market participants conduct an options business as a member of only one options market.

Most firms that actively trade on options markets are not currently Members of MRX. Using options markets that Nasdaq operates as points of comparison, less than a third of the firms that are members of at least one of the options markets that Nasdaq operates are also Members of MRX (approximately 29%). The Exchange notes that no firm is a Member of MRX only. Few, if any, firms have become Members at MRX, notwithstanding the fact that MRX membership is currently free, because MRX currently has less liquidity than other options markets. As explained above, MRX has the smallest market share of the 16 options exchanges, representing only approximately 1.8% of the market, and, for certain market participants, the current levels of liquidity may be insufficient to justify the costs associated with becoming a Member and connecting to the Exchange, notwithstanding the fact that membership is free.

The decision to become a member of an exchange, particularly for registered market makers, is complex, and not solely based on the non-transactional costs assessed by an exchange. As noted herein, specific factors include, but are not limited to: (i) an exchange's available liquidity in options series; (ii) trading functionality offered on a particular market; (iii) product offerings; (iv) customer service on an exchange; and (v) transactional pricing. Becoming a member of an exchange does not ''lock'' a potential member into a market or diminish the overall competition for exchange services. The decision to become a member of an exchange is made at the beginning of the relationship, and is no less subject to competition than trading fees.

In lieu of becoming a member at each options exchange, a market participant may join one exchange and elect to have their orders routed in the event that a better price is available on an away market. Nothing in the Order Protection Rule requires a firm to become a Member at MRX.[64] If MRX is not at the NBBO, MRX will route an order to any away market that is at the NBBO to prevent a trade-through and also ensure that the order was executed at a superior price.[65]

[60] *See e.g.,* options on the Nasdaq-100 Index® available on ISE, GEMX and Phlx and Cboe's Market Volatility Index®. Currently, MRX does not list any proprietary products.

[61] *See* Miami International Securities Exchange, LLC Fee Schedule at 20 and 21: *https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_03012022.pdf.*

[62] *See* GEMX Options 7, Section 6.B. (CMM Trading Rights Fees).

[63] *See* Securities Exchange Act Release No. 93927 (January 7, 2022), 87 FR 2191 (January 13, 2022) (SR–MEMX–2021–19). The Monthly Membership Fee is assessed to each active Member at the close of business on the first day of each month.

[64] *See* Options Order Protection and Locked/Crossed Market Plan (August 14, 2009), available at *https://www.theocc.com/getmedia/7fc629d9-4e54-4b99-9f11-c0e4db1a2266/options_order_protection_plan.pdf.*

[65] MRX Members may elect to not route their orders by marking an order as ''do-not-route.'' In

Continued

In lieu of joining an exchange, a third-party may be utilized to execute an order on an exchange. For example, a third-party broker-dealer Member of MRX may be utilized by a retail investor to submit orders into an Exchange. An institutional investor may utilize a broker-dealer, a service bureau,[66] or request sponsored access [67] through a member of an exchange in order to submit a trade directly to an options exchange.[68] A market participant may either pay the costs associated with becoming a member of an exchange or, in the alternative, a market participant may elect to pay commissions to a broker-dealer, pay fees to a service bureau to submit trades, or pay a member to sponsor the market participant in order to submit trades directly to an exchange. Market participants may elect any of the above models and weigh the varying costs when determining how to submit trades to an exchange. Depending on the number of orders to be submitted, technology, ability to control submission of orders, and projected revenues, a market participant may determine one model is more cost efficient as compared to the alternatives.

After 6 years, MRX proposes to commence assessing membership fees, just as all other options exchanges.[69] The introduction of these fees will not impede a Member's access to MRX, but rather will allow MRX to continue to compete and grow its marketplace so that it may continue to offer a robust trading architecture, a quality opening process, an array of simple and complex order types and auctions, and competitive transaction pricing. If MRX is incorrect in its assessment of the value of its services, that assessment will be reflected in MRX's ability to compete with other options exchanges.

this case, the order would not be routed. *See* Options 3, Section 7(m).

[66] Service bureaus provide access to market participants to submit and execute orders on an exchange. On MRX, a Service Bureau may be a Member. Some MRX Members utilize a Service Bureau for connectivity and that Service Bureau may not be a Member. Some market participants utilize a Service Bureau who is a Member to submit orders. As noted herein only MRX Members may submit orders or quotes through ports.

[67] Sponsored Access is an arrangement whereby a member permits its customers to enter orders into an exchange's system that bypass the member's trading system and are routed directly to the Exchange, including routing through a service bureau or other third-party technology provider.

[68] This may include utilizing a Floor Broker and submitting the trade to one of the five options trading floors.

[69] Today, MRX is the only options exchange that does not assess membership fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes its proposal remains competitive with other options markets, and will offer market participants with another choice of venue to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed membership fees are identical to membership fees assessed by GEMX.[70] The proposed fees are designed to reflect the benefits of the technical, regulatory, and administrative services provided to a Member by the Exchange, and the fees remain competitive with similar fees offered on other options exchanges. The Exchange does not believe that assessing different fees for PMMs, CMMs, and EAMs creates an undue burden on competition.

With respect to the CMM Trading Rights Fee, the proposed fees compare favorably with those of other options exchanges.[71] Like other options exchanges, the Exchange is proposing a tiered pricing model because it may encourage CMM firms to purchase additional trading rights and quote more issues because subsequent trading rights are priced lower than the initial trading right. The Exchange notes that it is not proposing trading right fees for PMMs as the Exchange wishes to encourage Members to act as PMMs, which will benefit the market through, for example, more robust quoting. Additionally, as noted herein, PMMs have higher quoting obligations as compared to CMMs.[72]

[70] *See* GEMX Options 7, Section 6.A. (Access Fees) and Section 6.B. (CMM Trading Rights Fees).

[71] *See* NYSE Arca Fees and Charges, General Options and Trading Permit (OTP) Fees (comparing CMM Trading Rights Fees to the Arca Market Maker fees).

[72] *See* MRX Options 2, Section 5. PMMs, associated with the same Member, are collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as the Exchange may announce. CMMs are not required to enter quotations in the options classes to which it is appointed, however if a CMM initiates quoting in an options class, the CMM, associated with the same Member, is collectively required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[73] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2022–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2022–07. 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

[73] 15 U.S.C. 78s(b)(3)(A)(ii).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2022–07 and should be submitted on or before August 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15222 Filed 7–15–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95265; File No. SR–MRX–2022–08]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend MRX Options 7, Section 7 To Add Fees for Market Data

July 12, 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 June 29, 2022, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amend MRX's Pricing Schedule at Options 7, Section 7.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

MRX proposes to amend its Pricing Schedule at Options 7, Section 7, to assess market data fees, which are not assessed today, and which have not been assessed since MRX's inception in 2016.[3] The proposed changes are designed to update data fees to reflect their current value—rather than their value when it was a new exchange six years ago—based on increased market share. Newly-opened exchanges often charge no fees for market data to attract order flow to an exchange, and later amend their fees to reflect the true value of those services.[4] Allowing newly-opened exchanges time to build and sustain market share before charging for their market data encourages market entry and promotes competition.

This Proposal reflects MRX's assessment that it has gained sufficient market share to compete effectively against other 15 options exchanges without waiving market data fees. Such fees are assessed by options exchanges that compete with MRX—indeed, MRX is the only options exchange (out of the 16 current options exchanges) not to assess them today. New exchanges commonly waive data fees to attract market participants, facilitating their entry into the market and, once there is sufficient depth and breadth of liquidity, ''graduate'' to compete against established exchanges and charge fees that reflect the value of their services. If MRX is incorrect in its assessment, that error will be reflected in MRX's ability to compete with other options exchanges.[5]

The Exchange proposes to amend fees for the following market data feeds within Options 7, Section 7: (1) Nasdaq MRX Depth of Market Data; [6] (2) Nasdaq MRX Order Feed; [7] (3) Nasdaq MRX Top Quote Feed; [8] (4) Nasdaq MRX Trades

[74] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed pricing changes on May 2, 2022 (SR–MRX–2022–04) instituting fees for membership, ports and market data. *See* Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305 (May 18, 2022) (SR–MRX–2022–04). On June 29, 2022, the Exchange withdrew that filing, and submitted separate filings for membership, ports and market data. The instant filing replaces the market data fees set forth in SR–MRX–2022–04.

[4] *See, e.g.,* Securities Exchange Act Release No. 88211 (February 14, 2020), 85 FR 9847 (February 20, 2020) (SR–NYSENAT–2020–05), also available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-national/rule-filings/filings/2020/SR-NYSENat-2020-05.pdf.* (initiating market data fees for the NYSE National exchange after initially setting such fees at zero).

[5] Nasdaq recently announced that, beginning in 2022, Nasdaq plans to migrate its North American markets to Amazon Web Services in a phased approach, starting with Nasdaq MRX, a U.S. options market. The proposed fee changes are entirely unrelated to this effort.

[6] Nasdaq MRX Depth of Market Data Feed (''Depth of Market Feed'') provides aggregate quotes and orders at the top five price levels on MRX, and provides subscribers with a consolidated view of tradable prices beyond the BBO, showing additional liquidity and enhancing transparency for MRX traded options. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. In addition, subscribers are provided with total aggregate quantity, Public Customer aggregate quantity, Priority Customer aggregate quantity, price, and side (*i.e.,* bid/ask). This information is provided for each of the top five price levels on the Depth Feed. The feed also provides order imbalances on opening/reopening. *See* Options 3, Section 23(a)(1).

[7] Nasdaq MRX Order Feed (''Order Feed'') provides information on new orders resting on the book (*e.g.* price, quantity and market participant capacity). In addition, the feed also announces all auctions. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening. *See* Options 3, Section 23(a)(2).

[8] Nasdaq MRX Top Quote Feed (''Top Quote Feed'') calculates and disseminates MRX's best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable order and

Continued

Feed; [9] and (5) Nasdaq MRX Spread Feed.[10] Currently, no fees are being assessed for these feeds.

In addition to the proposed fees for each data feed, the Exchange is introducing an Internal Distributor Fee [11] of $1,500 per month for the Nasdaq MRX Depth of Market Feed, Order Feed, and Top Quote Feed, an Internal Distributor Fee of $750 per month for the Trades Feed, and an Internal Distributor Fee of $1,000 per month for the Spread Feed. If a Member subscribes to both the Trades Feed and the Spread Feed, both Internal Distributor Fees would be assessed.

The Exchange also proposes to assess an External Distributor Fee of $2,000 per month for the Nasdaq MRX Depth of Market Feed, Order Feed, and Top Quote Feed, an External Distributor Fee of $1,000 per month for the Trades Feed, and an External Distributor Fee of $1,500 per month for the Spread Feed.

MRX will also assess Professional [12] and Non-Professional [13] subscriber fees. The Professional Subscriber will be $25 per month, and the Non-Professional Subscriber will be $1 per month. These subscriber fees (both Professional and Non-Professional) cover the usage of all five MRX data products identified above and would not be assessed separately for each product.[14]

MRX also proposes a Non-Display Enterprise License for $7,500 per month. This license would lower costs for internal professional subscribers and lower administrative costs overall by permitting the distribution of all MRX proprietary direct data feed products to an unlimited number of internal non-display Subscribers without incurring additional fees for each internal Subscriber, or requiring the customer to count internal subscribers.[15] The Non-Display Enterprise License is in addition to any other associated distributor fees for MRX proprietary direct data feed products.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to the pricing schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for order flow, which constrains its pricing determinations. The fact that the market for order flow is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [18]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention to determine prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [19]

Congress directed the Commission to ''rely on 'competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system.' '' [20] As a result, the Commission has historically relied on competitive forces to determine whether a fee proposal is equitable, fair, reasonable, and not unreasonably or unfairly discriminatory. ''If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior.'' [21] Accordingly, ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [22] In its 2019 guidance on fee proposals, Commission staff indicated that they would look at factors beyond the competitive environment, such as cost, only if a ''proposal lacks

quote interest in the System. The feed also provides last trade information along with opening price, daily trading volume, high and low prices for the day. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening. *See* Options 3, Section 23(a)(3).

[9] Nasdaq MRX Trades Feed (''Trades Feed'') displays last trade information along with opening price, daily trading volume, high and low prices for the day. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. *See* Options 3, Section 23(a)(4).

[10] Nasdaq MRX Spread Feed (''Spread Feed'') is a feed that consists of: (1) options orders for all Complex Orders (*i.e.,* spreads, buy-writes, delta neutral strategies, etc.); (2) data aggregated at the top five price levels (BBO) on both the bid and offer side of the market; (3) last trades information. The Spread Feed provides updates, including prices, side, size and capacity, for every Complex Order placed on the MRX Complex Order Book. The Spread Feed shows: (1) aggregate bid/ask quote size; (2) aggregate bid/ask quote size for Professional Customer Orders; and (3) aggregate bid/ask quote size for Priority Customer Orders for MRX traded options. The feed also provides Complex Order auction notifications. *See* Options 3, Section 23(a)(5).

[11] A ''distributor'' of Nasdaq MRX data is any entity that receives a feed or data file of data directly from Nasdaq MRX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All distributors shall execute a Nasdaq Global Data Agreement.

[12] A Professional Subscriber is any Subscriber that is not a Non-Professional Subscriber.

[13] A Non-Professional Subscriber is a natural person who is neither: (i) registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

[14] For example, if a firm has one Professional (Non-Professional) Subscriber accessing Top of Market, Order, and Depth of Market Feed the firm would only report the Subscriber once and pay $25 ($1 for Non-Professional).

[15] The Non-Display Enterprise License of $7,500 per month is optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

[16] *See* 15 U.S.C. 78f(b).

[17] *See* 15 U.S.C. 78f(b)(4) and (5).

[18] *See NetCoalition,* 615 F.3d at 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[19] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[20] *See NetCoalition,* 615 F.3d at 534–35; *see also* H.R. Rep. No. 94–229 at 92 (1975) (''[I]t is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed.'').

[21] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74,770 (December 9, 2008) (SR–NYSEArca–2006–21).

[22] *Id.*

persuasive evidence that the proposed fee is constrained by significant competitive forces.'' [23]

History of MRX Operations

Over the years, MRX has amended its transactional pricing to attract order flow to the Exchange.[24] In June 2019, MRX commenced offering complex orders.[25] With the addition of complex order functionality, MRX offered Members certain order types, an opening process, auction capabilities and other trading functionality that was nearly identical to functionality available on ISE.[26] The added functionality attracted order flow, which has enhanced the value of its market data and is the basis for these proposed fee changes.

Market Data Products are Subject to Significant Substitution-Based Competitive Forces

An Exchange can show that a product is ''subject to significant substitution-based competitive forces'' by introducing evidence that customers can substitute that product with products offered by other exchanges.

NYSE National was able to prove exactly this when it sought approval for the ''NYSE National Integrated Feed'' [27] in 2020. NYSE National at the time of its filing was in a similar position to MRX today—the exchange had an approximately 1.9% market share of executed volume of equity trades.[28] The Commission approved the proposal to establish fees for NYSE National based on a finding that the exchange ''was subject to significant substitution-based competitive forces.'' Citing *NetCoalition I,*[29] the Commission stated that ''whether a market is competitive notwithstanding potential alternatives depends on factors such as the number of buyers who consider other products interchangeable and at what prices.'' [30] Noting that ''many market participants . . . do not subscribe to . . . the NYSE National Integrated Feed, even when the feed is offered without charge,'' the Commission concluded that ''NYSE National's consistently low percentage of market share, the relatively small number of subscribers to the NYSE National Integrated Feed, and the sizeable portion of subscribers that terminated their subscriptions following the proposal of the fees,'' demonstrated that the exchange ''was subject to significant substitution-based competitive forces'' in setting fees such that the proposed rule change was consistent with the Act.[31]

MRX today is in essentially the same position as NYSE National in 2020, and all three of the factors cited in the Commission's approval order for NYSE National are present in MRX today. First, MRX has a consistently low percentage of market share, starting at approximately 0.2 percent when it opened as an Exchange and ending in approximately 1.8 percent today. Second, only a small number of firms purchase market data from MRX relative to its affiliated options exchanges. Third, a sizeable portion of subscribers—approximately 15 percent—have terminated their subscriptions following the implementation of the proposed fees, demonstrating that customers can and do exercise choice in deciding whether to purchase the Exchange's market data feeds.

As of May 2, 2022, the date that MRX initially proposed these market data fees, MRX reported that two customers had terminated their market data subscriptions.[32] As of June 29, 2022, approximately two months later, an additional three have done so, for a total of five cancellations, amounting to approximately 15 percent of the 34 customers that had been taking MRX feeds in the first quarter of 2022. All five customers terminated all feeds available

[23] *See* U.S. Securities and Exchange Commission, ''Staff Guidance on SRO Rule filings Relating to Fees'' (May 21, 2019), available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees.*

[24] *See e.g.,* Securities Exchange Act Release Nos. 77292 (March 4, 2016), 81 FR 12770 (March 10, 2016) (SR–ISEMercury–2016–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Schedule of Fees); 77409 (March 21, 2016), 81 FR 16240 (March 25, 2016) (SR–ISEMercury–2016–05) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 81 FR 16238 (March 21, 2016), 81 FR 16238 (March 25, 2016) (SR–ISEMercury–2016–06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 77841 (May 16, 2016), 81 FR 31986 (SR–ISEMercury–2016–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 82537 (January 19, 2018), 83 FR 3784 (January 26, 2018) (SR–MRX–2018–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Introduce a New Pricing Model); 82990 (April 4, 2018), 83 FR 15434 (April 10, 2018) (SR–MRX–2018–10) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IV of the Exchange's Schedule of Fees); 28677 (June 14, 2018), 83 FR 28677 (June 20, 2018) (SR–MRX–2018–19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase Certain Route-Out Fees Set Forth in Section II.A of the Schedule of Fees); 84113 (September 13, 2018), 83 FR 47386 (September 19, 2018) (SR–MRX–2018–27) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Schedule of Fees); 85143 (February 14, 2019), 84 FR 5508 (February 21, 2019) (SR–MRX–2019–02) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Pricing Schedule at Options 7, Section 3); 85313 (March 14, 2019), 84 FR 10357 (March 20, 2019) (SR–MRX–2019–05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to PIM Fees and Rebates); 86326 (July 8, 2019), 84 FR 33300 (July 12, 2019) (SR–MRX–2019–14) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Complex Order Pricing); 88022 (January 23, 2020), 85 FR 5263 (January 29, 2020) (SR–MRX–2020–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend MRX Pricing Schedule); 89046 (June 11, 2020), 85 FR 36633 (June 17, 2020) (SR–MRX–2020–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7); 89320 (July 15, 2020), 85 FR 44135 (July 21, 2020) (SR–MRX–2020–14) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, in Connection With the Pricing for Orders Entered Into the Exchanges Price Improvement Mechanism); 90503 (November 24, 2020), 85 FR 77317 (December 1, 2020) (SR–MRX–2020–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7 for Orders Entered Into the Exchange's Price Improvement Mechanism); 90434 (November 16, 2020), 85 FR 74473 (November 20, 2020) (SR–MRX–2020–19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To the Exchange's Pricing Schedule at Options 7 To Amend Taker Fees for Regular Orders); 90455 (November 18, 2020), 85 FR 75064 (November 24, 2020) (SR–MRX–2020–21) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pricing Schedule); and 91687 (April 27, 2021), 86 FR 23478 (May 3, 2021) (SR–MRX–2021–04) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7). Note that ISE Mercury is an earlier name for MRX.

[25] *See* Securities Exchange Act Release No. 86326 (July 8, 2019), 84 FR 33300 (July 12, 2019) (SR–MRX–2019–14) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Complex Order Pricing).

[26] One distinction is that ISE offered its Members access to Nasdaq Precise in 2019 and since that time. MRX has never offered Precise. ''Nasdaq Precise'' or ''Precise'' is a front-end interface that allows EAMs and their Sponsored Customers to send orders to the Exchange and perform other related functions. Features include the following: (1) order and execution management: enter, modify, and cancel orders on the Exchange, and manage executions (*e.g.,* parent/child orders, inactive orders, and post-trade allocations); (2) market data: access to real-time market data (*e.g.,* NBBO and Exchange BBO); (3) risk management: set customizable risk parameters (*e.g.,* kill switch); and (4) book keeping and reporting: comprehensive audit trail of orders and trades (*e.g.,* order history and done away trade reports). *See* ISE Supplementary Material .03(d) of Options 3, Section 7. Precise is also available on GEMX.

[27] NYSE National stated that the proposed integrated feed included depth-of-book order data, last sale data, security status updates, and stock summary messages. *See* Securities Exchange Act Release No 88211 (February 14, 2020), 85 FR 9847 (February 20, 2020) (SR–NYSENAT–2020–05), also available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-national/rule-filings/filings/2020/SR-NYSENat-2020-05.pdf.* (''Initial NYSE National Proposal'').

[28] *See id.*

[29] *See NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. 2010) (''*NetCoalition I*'').

[30] *See* NYSE National Approval Order (citing *NetCoalition I*).

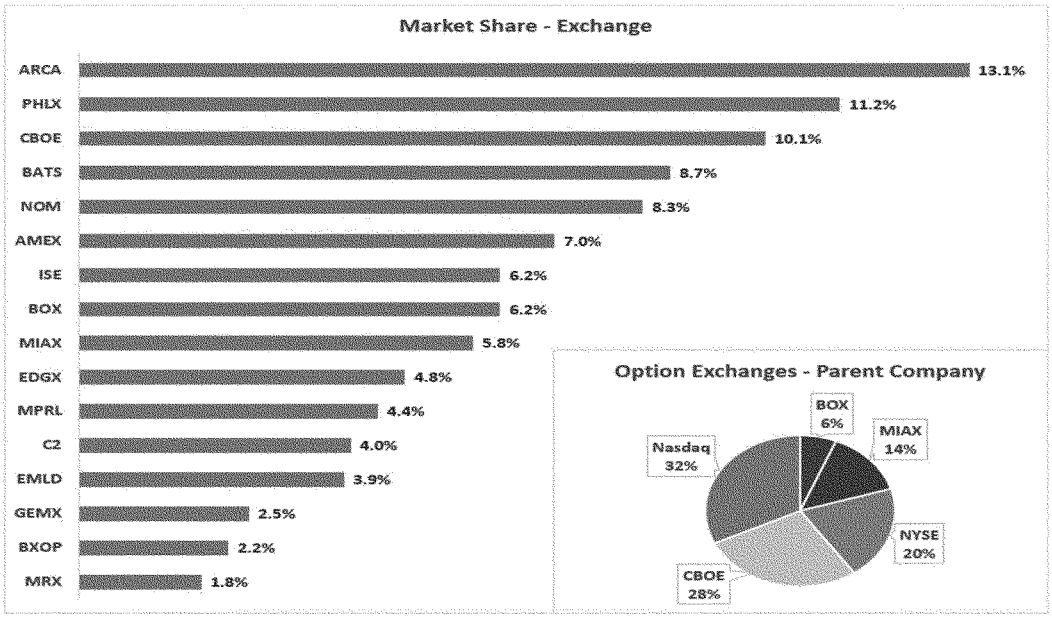
[31] *See id.*

[32] *See* Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305 (May 18, 2022) (SR–MRX–2022–04).

to them. Some customers had taken all feeds, while others had taken only a subset. Although not all customers took all of the MRX feeds, each one of these feeds—Nasdaq MRX Depth of Market Data, Nasdaq MRX Order Feed, Nasdaq MRX Top Quote Feed, Nasdaq MRX Trades Feed, and Nasdaq MRX Spread Feed—was cancelled by at least one customer, demonstrating that customers can and do exercise choice with respect to each feed. Nasdaq does not have detailed information from each customer about how these feeds were used prior to cancellation or why they were cancelled, but each customer, after being specifically informed about the new MRX fees, terminated all access to MRX market data.[33]

Detailed information supporting the first step in this analysis—low market share—is set forth in Chart 1, which shows the January 2022 market share for multiply-listed options by exchange. Of the 16 operating options exchanges, none currently has more than a 13.1% market share, and MRX has the smallest market share at 1.8%. Customers widely distribute their transactions across exchanges according to their business needs and the ability of each exchange to meet those needs through technology, liquidity and functionality. Average market share for the 16 options exchanges is 6.26 percent, with the median at 5.8, and a range between 1.8 and 13.1 percent.

Chart 1: Market Share by Exchange for January 2022



Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of market data.

The second step in this analysis—demonstrating that only a small number of firms purchase market data relative to affiliated options exchanges—is shown in Chart 2, which compares the number of firms with access to market data from MRX to the number of firms purchasing market data from the four MRX-affiliated options exchanges, GEMX, ISE, The Nasdaq Stock Market LLC (''NOM'') and Nasdaq PHLX, LLC (''Phlx'').

[33] These terminations were limited to market data; none of these customers were members of MRX and therefore purchased neither memberships nor ports from the Exchange.

Chart 2: Number of Firms with Access to Market Data and Purchasing Trading Services from Options Venues (March 2022)

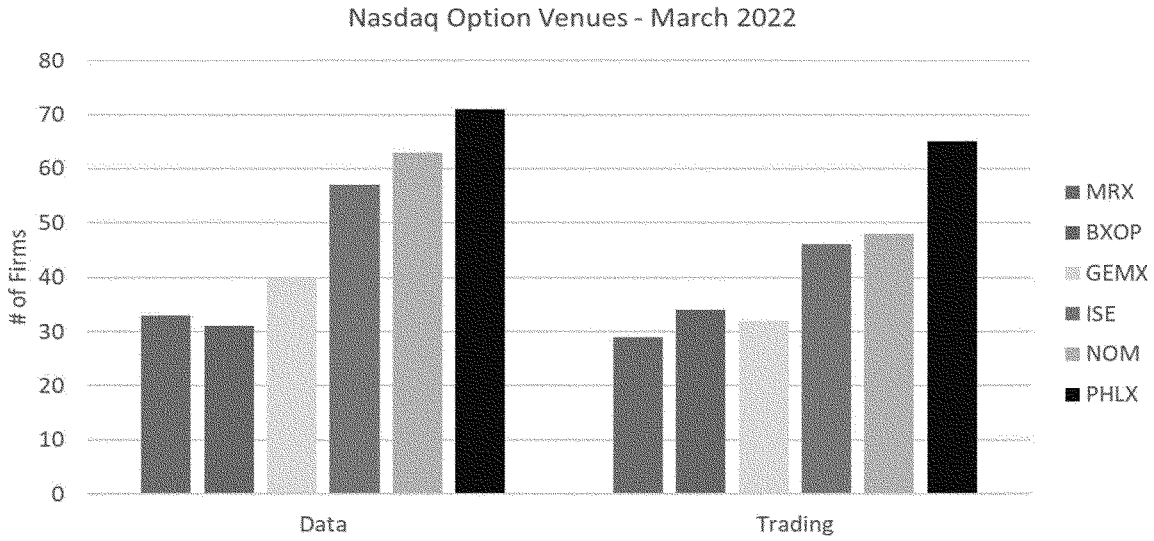


Chart 2 shows that 34 firms subscribed to at least one market data product from MRX in the first quarter of 2022. This is the second lowest number of firms purchasing market data from the Nasdaq-affiliated options exchanges.

The third step in this analysis—showing that a sizable number of customers terminated subscriptions following the proposal of the fees—is confirmed by the five customer cancellations. As explained above, all five customers terminated all feeds available to them. Although not all customers took all of the MRX feeds, each one of these feeds was cancelled by at least one customer, demonstrating that customers can and do exercise choice with respect to each feed. These cancellations reduced the number of firms with access to at least one MRX market data feed from 34 to 29, an approximately 15 percent reduction in usage, demonstrating that firms can and do exercise choice in determining whether to purchase market data from the Exchange.

MRX lists no proprietary options products that are entirely unique to MRX. Firms can substitute MRX market data with feeds from exchanges that provide a high degree of functionality, including complex orders. Full market data options are available, for example, from Cboe,[34] MIAX,[35] and NYSE Arca Options.[36] Because MRX does not list options on products that are exclusively available on MRX, consumers can substitute MRX data with data from any exchange that lists such multiply-listed options, or through OPRA. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

This analysis must be viewed in the context of a field with relatively low barriers to entry. MRX, like many new entrants to the field, offered market data for free to establish itself and gain market share. As new entrants enter the field, MRX can also expect competition from these new entrants. Those new entrants, like MRX, are likely to set market data fees to zero, increasing marketplace competition.

The Proposal is not unfairly discriminatory. The five market data feeds at issue here—the Depth of Market Feed, Order Feed, Top Quote Feed, Trades Feed, and Spreads Feed—are used by a variety of market participants for a variety of purposes. Users include regulators, market makers, competing exchanges, media, retail, academics, portfolio managers. Market data feeds will be available to members of all of these groups on a non-discriminatory basis.

With respect to the proposed Non-Display Enterprise License, enterprise licenses in general have been widely recognized as an effective and not unfairly discriminatory method of distributing market data. Enterprise licenses are widely employed by options exchanges, and the proposal here is typical of such licenses.

After 6 years, MRX proposes to commence assessing market data fees, just as all other options exchanges do now.[37] The introduction of these fees will not impede access to MRX, but rather will allow MRX to continue to compete and grow its marketplace so that it may continue to offer a robust trading architecture, a quality opening process, an array of simple and complex order types and auctions, and competitive transaction pricing. If MRX is incorrect in its assessment of the value of its services, that assessment will be reflected in MRX's ability to compete with other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. For all of the reasons set forth above, the Exchange is subject to ''significant substitution-based competitive forces'': (i) it has a consistently low percentage of market share, starting at approximately 0.2 percent when it opened as an Exchange and ending in approximately 1.8 percent today; (ii) only a small number of firms purchase market data from

[34] *See* Cboe DataShop, available at *https://datashop.cboe.com/*.

[35] *See* MIAX Options Market Data & Offerings, available at *https://www.miaxoptions.com/market-data-offerings*.

[36] *See* NYSE Options Markets, available at *https://www.nyse.com/options*.

[37] Today, MRX is the only options exchange that does not assess market data fees.

MRX relative to its affiliated options exchanges; and (iii) a sizeable portion of subscribers—approximately 15 percent—have terminated their subscriptions following the implementation of the proposed fees, demonstrating that customers can and do exercise choice in deciding whether to purchase market data.

Nothing in the Proposal burdens inter-market competition (the competition among self-regulatory organizations) because approval of the Proposal does not impose any burden on the ability of other options exchanges to compete. Each of the remaining 15 options exchanges currently sells its market data, and is capable of modifying its fees in response to the proposed changes by MRX. Moreover, allowing MRX, or any new market entrant, to waive fees for a period of time to allow it to become established encourages market entry and thereby ultimately promotes competition.

Nothing in the Proposal burdens intra-market competition (the competition among consumers of exchange data) because each customer will be able to decide whether or not to purchase the Exchange's market data, as demonstrated by the fact that a significant number of the Exchange's customers have already elected to terminate their access to such feeds.

The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share.[38]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[38] The Exchange notified market participants of the new fees on December 20, 2021. *See* Data News #2021–11 (December 20, 2021, available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=dn2021-11*. As such, market participants have had ample notice of the proposed fee changes and will be able to adjust their purchases of exchange services accordingly.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[39] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MRX–2022–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2022–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2022–08 and should be submitted on or before August 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

J. Matthew DeLesDernier,

Assistant Secretary.

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[39] 15 U.S.C. 78s(b)(3)(A)(ii).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95262; File No. SR–MRX–2022–09]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend MRX's Pricing Schedule at Options 7, Section 6 To Add Port Fees

July 12, 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 July 1, 2022, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend MRX's Pricing Schedule at Options 7, Section 6.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

MRX proposes to amend its Pricing Schedule at Options 7, Section 6, Ports and Other Services, to assess port fees, which are not assessed today, and which have not been assessed since MRX's inception in 2016.[3] The proposed changes are designed to update fees for MRX's services to reflect their current value—rather than their value when it was a new exchange six years ago—based on MRX's ability to deliver value to its customers through technology, liquidity and functionality. Newly-opened exchanges often charge no fees for certain services, such as ports, in order to attract order flow to an exchange, and later amend their fees to reflect the true value of those services.[4] Allowing newly-opened exchanges time to build and sustain market share before charging non-transactional fees encourages market entry and promotes competition. The proposed port fees within Options 7, Section 6, Ports and Other Services, are described below.

This proposal reflects MRX's assessment that it has gained sufficient market share to compete effectively against the other 15 options exchanges without waiving fees for ports. These types of fees are assessed by options exchanges that compete with MRX in the sale of exchange services. New exchanges commonly waive connectivity fees to attract market participants, facilitating their entry into the market and, once there is sufficient depth and breadth of liquidity, ''graduate'' to compete against established exchanges and charge fees that reflect the value of their services.[5] If MRX is incorrect in this assessment, that error will be reflected in MRX's ability to compete with other options exchanges.[6]

The Exchange proposes to amend fees for the following ports within Options 7, Section 6: (1) FIX,[7] (2) SQF; [8] (3) SQF Purge; [9] (4) OTTO; [10] (5) CTI; [11] (6) FIX DROP; [12] and Disaster Recovery Ports.[13] Currently, no fees are being assessed for these ports.

The Exchange proposes to assess no fee for the first FIX Port obtained by an Electronic Access Member [14] or the first SQF Port obtained by a Market Maker.[15]

[3] The Exchange initially filed the proposed pricing changes on May 2, 2022 (SR–MRX–2022–04) instituting fees for membership, ports and market data. On June 29, 2022, the Exchange withdrew that filing, and submitted separate filings for membership, ports and market data. SR–MRX–2022–06 replaced the port fees set forth in SR–MRX–2022–04. The instant filing replaces SR–MRX–2022–06.

[4] *See, e.g.,* Securities Exchange Act Release No 90076 (October 2, 2020), 85 FR 63620 (October 8, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt the Initial Fee Schedule and Other Fees for MEMX LLC).

[5] For example, MIAX Emerald commenced operations as a national securities exchange registered on March 1, 2019. *See* Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (File No. 10–233) (order approving application of MIAX Emerald, LLC for registration as a national securities exchange). MIAX Emerald filed to adopt its transaction fees and certain of its non-transaction fees in its filing SR–EMERALD–2019–15. *See* Securities Exchange Act Release No. 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR–EMERALD–2019–15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the MIAX Emerald Fee Schedule). MIAX Emerald waived its one-time application fee and monthly Trading Permit Fees assessable to EEMs and Market Makers among other fees within SR–EMERALD–2019–15.

[6] Nasdaq recently announced that, beginning in 2022, Nasdaq plans to migrate its North American markets to Amazon Web Services in a phased approach, starting with Nasdaq MRX, a U.S. options market. The proposed fee changes are entirely unrelated to this effort.

[7] ''Financial Information eXchange'' or ''FIX'' is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders to the Exchange. Features include the following: (1) execution messages; (2) order messages; (3) risk protection triggers and cancel notifications; and (4) post trade allocation messages. *See* Supplementary Material .03(a) to Options 3, Section 7.

[8] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Supplementary Material .03(c) to Options 3, Section 7.

[9] SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. Dedicated SQF Purge Ports enable Market Makers to seamlessly manage their ability to remove their quotes in a swift manner.

[10] ''Ouch to Trade Options'' or ''OTTO'' is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders, auction orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages. *See* Supplementary Material .03(b) to Options 3, Section 7.

[11] Clearing Trade Interface (''CTI'') is a real-time cleared trade update message that is sent to a Member after an execution has occurred and contains trade details specific to that Member. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement (''CMTA'') or The Options Clearing Corporation (''OCC'') number; (ii) badge or mnemonic; (iii) account number; (iv) information which identifies the transaction type (*e.g.,* auction type) for billing purposes; and (v) market participant capacity. *See* Options 3, Section 23(b)(1).

[12] FIX DROP is a real-time order and execution update message that is sent to a Member after an order been received/modified or an execution has occurred and contains trade details specific to that Member. The information includes, among other things, the following: (i) executions; (ii) cancellations; (iii) modifications to an existing order; and (iv) busts or post-trade corrections. *See* Options 3, Section 23(b)(3).

[13] Disaster Recovery ports provide connectivity to the Exchange's disaster recovery data center, to be utilized in the event the Exchange should failover during a trading day.

[14] One free FIX Port would be provided to each Electronic Access Member. The term ''Electronic Access Member'' or ''EAM'' means a Member that is approved to exercise trading privileges associated with EAM Rights. *See* General 1, Section 1(a)(6). Also, one free SQF Port would be provided to each Market Maker. The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21). The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12). The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

[15] One free SQF Port would be provided to each Market Maker. The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21). The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12). The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

The Exchange proposes to assess a FIX Port Fee of $650 per port, per month, per account number for each subsequent port beyond the first port.[16] The Exchange proposes to assess an SQF Port Fee of $1,250 per port, per month for each subsequent port beyond the first port.[17] The Exchange proposes to assess an SQF Purge Port Fee of $1,250 per port, per month. The Exchange proposes to assess an OTTO Port Fee of $650 per port, per month, per account number. The Exchange proposes to assess a CTI Port Fee and a FIX Drop Port Fee of $650 per port, per month.

The Exchange proposes to assess no fee for the first FIX Disaster Recovery Port obtained by an Electronic Access Member[18] or the first SQF Disaster Recovery Port obtained by a Market Maker.[19] The Exchange proposes to assess each additional FIX Disaster Recovery Port and each additional SQF Disaster Recovery Port a fee of $50 per port, per month, per account number. Additionally, the Exchange proposes to assess a Disaster Recovery Fee for SQF Purge and OTTO Ports of $50 per port, per month, per account number. Finally, the Exchange proposes to assess a Disaster Recovery Fee for CTI Ports and FIX DROP Ports of $50 per port, per month.

The OTTO Port, CTI Port, FIX Port, FIX Drop Port and all Disaster Recovery Ports[20] are available to all Electronic Access Members, and will be subject to a monthly cap of $7,500.

The SQF Port and the SQF Purge Port are available to all Market Makers, and will be subject to a monthly cap of $17,500.[21]

The Exchange is not amending the TradeInfo MRX Interface[22] or the Nasdaq MRX Depth of Market, Nasdaq MRX Order Feed, Nasdaq MRX Top Quote Feed, Nasdaq MRX Trades Feed, or Nasdaq MRX Spread Feed Ports; all of these aforementioned ports will continue to be assessed no fees. Additionally, as is the case today, the Disaster Recovery Ports for TradeInfo and the Nasdaq MRX Depth of Market, Nasdaq MRX Order Feed, Nasdaq MRX Top Quote Feed, Nasdaq MRX Trades Feed and Nasdaq MRX Spread Feed Ports will not be assessed a fee.

Order and Quote Entry Protocols

Only one order protocol is required for an MRX Member to submit orders into MRX. The Exchange will provide each Electronic Access Member one FIX Port at no cost to submit orders into MRX. Only one quote protocol is required for an MRX Market Maker to submit quotes into MRX. The Exchange will provide each Market Maker one SQF Port at no cost to submit quotes into MRX. A quoting protocol, such as SQF, is only required to the extent an MRX Member has been appointed as a Market Maker in an options series pursuant to Options 2, Section 1.

Only MRX Members may utilize ports on MRX. Any market participant that sends orders to a Member would not need to utilize a port. The Member can send all orders, proprietary and agency, through one port to MRX. Members may elect to obtain multiple account numbers to organize their business, however only one account number and one port for orders and one port for quotes is necessary for a Member to trade on MRX.

MRX also offers an OTTO protocol. Unlike FIX, which offers routing capability, OTTO does not permit routing. Depending on a Member's business model, Members may elect to purchase an OTTO Port in addition to the one FIX Port offered at no cost. Members may prefer one protocol as compared to another protocol, for example, the ability to route may cause a Member to utilize FIX and a Member that desires to execute an order locally may utilize OTTO. Also, the OTTO Port offers lower latency as compared to the FIX Port, which may be attractive to Members depending on their trading behavior. MRX Members utilizing the one FIX Port offered at no cost do not need to purchase an OTTO Port. However, Members may elect to utilize both order entry protocols, depending on how they organize their business. Because the Exchange is providing one FIX Port at no cost, the use of an OTTO Port is optional. OTTO provides MRX Members with an additional choice as to the type of protocol that they may use to submit orders to the Exchange. Today, Nasdaq Phlx LLC (''Phlx'') and Nasdaq BX, Inc. (''BX'') offer only a FIX Port to submit orders on those options markets.[23]

Further, while only one protocol is necessary to submit orders into MRX, Members may choose to purchase a greater number of order entry ports, depending on that Member's business model.[24] To the extent that Electronic Access Members chose to utilize more than one FIX Port, the Electronic Access Member would be assessed $650 per port, per month, per account number for each subsequent optional port beyond the first port. To the extent that Market Makers chose to utilize more than one SQF Port, the Market Maker would be assessed $1,250 per port, per month for each subsequent optional port beyond the first port. Additionally, to the extent a Member expended more than $7,500 for FIX Ports or more than $17,500 for SQF Ports, the Exchange would not charge an MRX Member for additional FIX or SQF Ports, respectively, beyond the cap.

Other Protocols

The Exchange's proposal to offer an SQF Purge Port for $1,250 per port, per month is optional. The SQF Purge Port

[16] An ''account number'' shall mean a number assigned to a Member. Members may have more than one account number. *See* Options 1, Section 1(a)(1).

[17] SQF's Port Fees are assessed a higher dollar fee as compared to FIX and OTTO ports ($1,250 vs. $650) because the Exchange has to maintain options assignments within SQF and manage quoting traffic. Market Makers may utilize SQF Ports in their assigned options series. Market Maker badges are assigned to specific SQF ports to manage the option series in which a Market Maker may quote. Additionally, because of quoting obligations provided for within Options 2, Section 5, Market Makers are required to provide liquidity in their assigned options series which generates quote traffic. The Exchange notes because of the higher fee, SQF ports are billed per port, per month while FIX and OTTO ports are billed per port, per month, per account number. Members may have more than one account number.

[18] One free FIX Port would be provided to each Electronic Access Member. The term ''Electronic Access Member'' or ''EAM'' means a Member that is approved to exercise trading privileges associated with EAM Rights. *See* General 1, Section 1(a)(6). Also, one free SQF Port would be provided to each Market Maker. The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21). The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12). The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

[19] One free SQF Port would be provided to each Market Maker. The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21). The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12). The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

[20] This includes FIX, SQF, SQF Purge, OTTO, CTI and FIX Drop Disaster Recovery Ports.

[21] Only Market Makers may quote on MRX. The Exchange is proposing non-substantive technical amendments to add commas within the ''Production'' column of the proposed rule text to separate terms.

[22] TradeInfo is a user interface that permits a Member to: (i) search all orders submitted in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.); (ii) view orders and executions; and (iii) download orders and executions for recordkeeping purposes. TradeInfo users may also cancel open orders at the order, port or firm mnemonic level through TradeInfo. *See* Options 3, Section 23(b)(2).

[23] *See* Phlx and BX Options 3, Section 7 for a list of protocols.

[24] For example, a Member may desire to utilize multiple FIX or OTTO Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

is designed to assist Market Makers in the management of, and risk control over, their quotes. Market Makers may utilize a purge port to reduce uncertainty and to manage risk by purging all quotes in their assigned options series. Of note, Market Makers may only enter interest into SQF in their assigned options series. Additionally, the SQF Purge Port may be utilized by a Market Maker in the event that the Member has a system issue and determines to purge from the order book. The SQF Purge Port is optional as Market Makers have various ways of purging their quotes from the order book. First of all, a Market Maker may cancel quotes through SQF in their assigned option series. Second, TradeInfo permits the cancellation of open orders at the order, port or firm mnemonic level.[25] Third, in the event of a loss of communication with the Exchange, MRX offers the ability to cancel all of a Member's open quotes via a cancel-on-disconnect control.[26] Fourth, MRX offers Market Makers the ability, with respect to simple orders, to establish pre-determined levels of risk exposure which would be utilized to automatically remove quotes in all series of an options class.[27] Accordingly, the Exchange believes that the SQF Purge Port provides an efficient option to other available services which allow a Market Maker to cancel quotes.

CTI Ports and FIX DROP Ports are optional as Members have various ways of receiving information concerning open orders and executed transactions. First, FIX and OTTO provide Members with real-time order executions similar to the Clearing Trade Interface and FIX DROP. Second, TradeInfo provides Members with the ability to query open orders and order executions real-time, at no cost, similar to the Clearing Trade Interface and FIX DROP. Third, Members receive free daily reports listing open orders and trade executions from the Exchange. While not real-time, the Open Orders Report and Trade Detail Report provides Members with information similar to the Clearing Trade Interface and FIX DROP.

Disaster Recovery

With respect to Disaster Recovery Ports, the Exchange proposes to assess no fee for the first FIX Disaster Recovery Port obtained by an Electronic Access Member or the first SQF Disaster Recovery Port obtained by a Market Maker. The Exchange proposes to assess no fees for these ports to provide Members with continuous access to MRX in the event of a failover at no cost. Electronic Access Members only require one FIX Disaster Recovery Port to submit orders in the event of a failover. Market Makers only require one SQF Disaster Recovery Port to submit quotes in the event of a failover. Electronic Access Members may elect to purchase additional optional FIX Disaster Recovery Ports for $50 per port, per month, per account number. Market Makers may elect to purchase additional optional SQF Disaster Recovery Ports for $50 per port, per month, per account number. The additional FIX and SQF Disaster Recovery Ports are not necessary to connect to the Exchange in the event of a failover because the Exchange has provided Members with a FIX Disaster Recovery Port and an SQF Disaster Recovery Port at no cost.

Further, the Exchange's proposal to offer Disaster Recovery Ports for SQF Purge Ports and OTTO Ports for $50 per port, per month, per account number and Disaster Recovery Ports for CTI Ports and FIX DROP Ports for $50 per port, per month is optional. As noted herein, today, there are other alternatives for these ports. The purchase of an SQF Purge Port, OTTO Port, CTI Port, and FIX DROP Port in production is optional and, therefore, so is the purchase of Disaster Recovery Ports for these ports. The proposed Disaster Recovery Port fees are intended to encourage Members to be efficient when purchasing Disaster Recovery Ports. Similar to all other ports, Disaster Recovery Ports need to be maintained by the Exchange.[28]

Finally, in the event that an MRX Member elects to subscribe to multiple ports, the Exchange offers a monthly cap beyond which a Member would be assessed no additional fees in a given month. As noted above, the SQF Port and the SQF Purge Port are subject to a monthly cap of $17,500 and the OTTO Port, CTI Port, FIX Port, FIX Drop Port and all Disaster Recovery Ports are subject to a monthly cap of $7,500.

As noted herein, these different protocols are not all necessary to conduct business on MRX; a Member may choose among protocols based on their business workflow. The proposed port fees are similar to fees assessed by GEMX.[29]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[30] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[31] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to the Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for order flow, which constrains its pricing determinations. The fact that the market for order flow is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [32]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention to determine prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [33]

Congress directed the Commission to ''rely on 'competition, whenever

[25] TradeInfo is free.

[26] *See* MRX Options 3, Section 18, Detection of Loss. This risk protection is free.

[27] *See* MRX Options 3, Section 15(a)(3)(B). Thresholds may be set by Members based on percentage, volume, delta or vega. This risk protection is free.

[28] The Exchange maintains ports in a number of ways to ensure that ports are properly connected to the Exchange at all times. This includes offering testing, ensuring all ports are up-to-date with the latest code releases, as well as ensuring that all ports meet the Exchange's information security specifications.

[29] *See* GEMX Options 7, Section 6.C. (Ports and Other Services).

[30] *See* 15 U.S.C. 78f(b).

[31] *See* 15 U.S.C. 78f(b)(4) and (5).

[32] *See NetCoalition,* 615 F.3d at 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[33] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system.' '' [34] As a result, the Commission has historically relied on competitive forces to determine whether a fee proposal is equitable, fair, reasonable, and not unreasonably or unfairly discriminatory. ''If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior.'' [35] Accordingly, ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [36] In its 2019 guidance on fee proposals, Commission staff indicated that they would look at factors beyond the competitive environment, such as cost, only if a ''proposal lacks persuasive evidence that the proposed fee is constrained by significant competitive forces.'' [37]

History of MRX Operations

Over the years, MRX has amended its transactional pricing to remain competitive and attract order flow to the Exchange.[38]

In June 2019, MRX commenced offering complex orders.[39] With the addition of complex order functionality, MRX offered Members certain order types, an opening process, auction capabilities and other trading functionality that was nearly identical to functionality available on ISE.[40] By way of comparison, ISE assessed fees for ports [41] in 2019 while offering the same suite of functionality as MRX, with a limited exception.[42]

Ports Are Subject to Significant Substitution-Based Competitive Forces

An exchange can show that a product is ''subject to significant substitution-based competitive forces'' by introducing evidence that customers can substitute the product for products offered by other exchanges.

Chart 1 below shows the January 2022 market share for multiply-listed options by exchange. Of the 16 operating options exchanges, none currently has more than a 13.1% market share, and MRX has the smallest market share at 1.8%. Customers widely distribute their transactions across exchanges according to their business needs and the ability of each exchange to meet those needs through technology, liquidity and functionality. Average market share for the 16 options exchanges is 6.26 percent, with the median at 5.8, and a range between 1.8 and 13.1 percent.

[34] *See NetCoalition,* 615 F.3d at 534–35; *see also* H.R. Rep. No. 94–229 at 92 (1975) (''[I]t is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed.'').

[35] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74,770 (December 9, 2008) (SR–NYSEArca–2006–21).

[36] *Id.*

[37] *See* U.S. Securities and Exchange Commission, ''Staff Guidance on SRO Rule filings Relating to Fees'' (May 21, 2019), available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees.*

[38] *See e.g.* Securities Exchange Act Release Nos. 77292 (March 4, 2016), 81 FR 12770 (March 10, 2016) (SR–ISEMercury–2016–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Schedule of Fees); 77409 (March 21, 2016), 81 FR 16240 (March 25, 2016) (SR–ISEMercury–2016–05) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 81 FR 16238 (March 21, 2016), 81 FR 16238 (March 25, 2016) (SR–ISEMercury–2016–06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 77841 (May 16, 2016), 81 FR 31986 (SR–ISEMercury–2016–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees); 82537 (January 19, 2018), 83 FR 3784 (January 26, 2018) (SR–MRX–2018–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Introduce a New Pricing Model); 82990 (April 4, 2018), 83 FR 15434 (April 10, 2018) (SR–MRX–2018–10) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IV of the Exchange's Schedule of Fees); 28677 (June 14, 2018), 83 FR 28677 (June 20, 2018) (SR–MRX–2018–19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase Certain Route-Out Fees Set Forth in Section II.A of the Schedule of Fees); 84113 (September 13, 2018), 83 FR 47386 (September 19, 2018) (SR–MRX–2018–27) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Schedule of Fees); 85143 (February 14, 2019), 84 FR 5508 (February 21, 2019) (SR–MRX–2019–02) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Pricing Schedule at Options 7, Section 3); 85313 (March 14, 2019), 84 FR 10357 (March 20, 2019) (SR–MRX–2019–05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to PIM Fees and Rebates); 86326 (July 8, 2019), 84 FR 33300 (July 12, 2019) (SR–MRX–2019–14) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Complex Order Pricing); 88022 (January 23, 2020), 85 FR 5263 (January 29, 2020) (SR–MRX–2020–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend MRX Pricing Schedule); 89046 (June 11, 2020), 85 FR 36633 (June 17, 2020) (SR–MRX–2020–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7); 89320 (July 15, 2020), 85 FR 44135 (July 21, 2020) (SR–MRX–2020–14) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, in Connection With the Pricing for Orders Entered Into the Exchanges Price Improvement Mechanism); 90503 (November 24, 2020), 85 FR 77317 (December 1, 2020) (SR–MRX–2020–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Pricing Schedule at Options 7 for Orders Entered Into the Exchange's Price Improvement Mechanism); 90434 (November 16, 2020), 85 FR 74473 (November 20, 2020) (SR–MRX–2020–19) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To the Exchange's Pricing Schedule at Options 7 To Amend Taker Fees for Regular Orders); 90455 (November 18, 2020), 85 FR 75064 (November 24, 2020) (SR–MRX–2020–21) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pricing Schedule); and 91687 (April 27, 2021), 86 FR 23478 (May 3, 2021) (SR–MRX–2021–04) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7). Note that ISE Mercury is an earlier name for MRX.

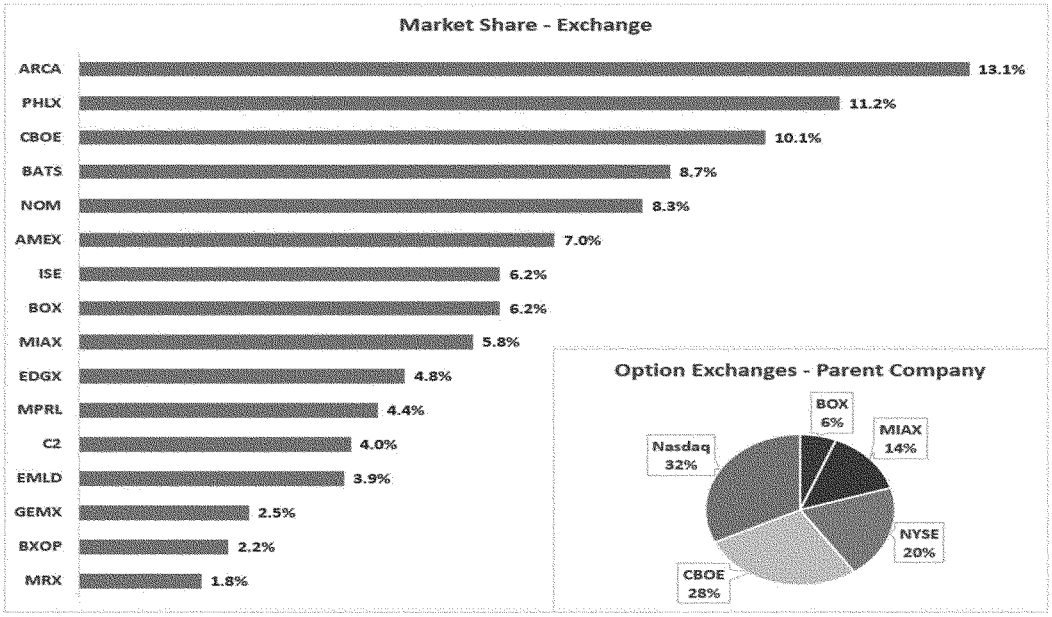
[39] *See* Securities Exchange Act Release No. 86326 (July 8, 2019), 84 FR 33300 (July 12, 2019) (SR–MRX–2019–14) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Complex Order Pricing).

[40] One distinction is that ISE offered its Members access to Nasdaq Precise in 2019 and since that time. MRX has never offered Precise. ''Nasdaq Precise'' or ''Precise'' is a front-end interface that allows EAMs and their Sponsored Customers to send orders to the Exchange and perform other related functions. Features include the following: (1) order and execution management: enter, modify, and cancel orders on the Exchange, and manage executions (*e.g.,* parent/child orders, inactive orders, and post-trade allocations); (2) market data: access to real-time market data (*e.g.,* NBBO and Exchange BBO); (3) risk management: set customizable risk parameters (*e.g.,* kill switch); and (4) book keeping and reporting: comprehensive audit trail of orders and trades (*e.g.,* order history and done away trade reports). *See* ISE Supplementary Material .03(d) of Options 3, Section 7. Precise is also available on GEMX.

[41] Since 2019, ISE has assessed the following port fees: a FIX Port Fee of $300 per port, per month, per mnemonic, an SQF Port Fee and SQF Purge Port Fee of $1,100 per port, per month, an OTTO Port Fee of $400 per port, per month, per mnemonic with a monthly cap of $4,000, a CTI Port Fee and FIX DROP Port Fee of $500 per port, per month, per mnemonic. *See* Securities Exchange Act Release No. 82568 (January 23, 2018), 83 FR 4086 (January 29, 2018) (SR–ISE–2018–07) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Assess Fees for OTTO Port, CTI Port, FIX Port, FIX Drop Port and Disaster Recovery Port Connectivity). Of note, ISE assessed port fees prior to 2019 as well.

[42] *See* note 40, *supra.*

Chart 1: Market Share by Exchange for January 2022



Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and ports.

Chart 2 below compares the number of firms purchasing FIX and SQF Ports from MRX to the number of firms purchasing such services from the four MRX-affiliated options exchanges, GEMX, ISE, The Nasdaq Stock Market LLC (''NOM'') and Phlx.

Chart 2: Number of Firms Purchasing Ports and Purchasing Trading Services from Options Venues (March 2022)

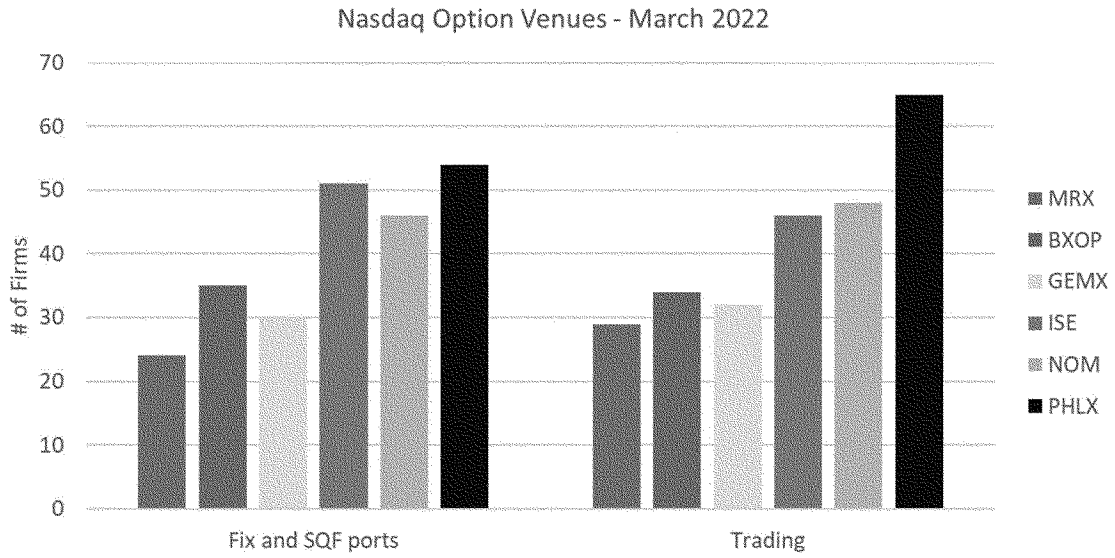


Chart 2 shows that fewer firms purchased MRX ports in March 2022 than the ports of its options exchange affiliates. As described in detail below, only one order protocol is required to submit orders to MRX. Quoting protocols are only required to the extent an MRX Member has been appointed as a Market Maker in an options series pursuant to Options 2, Section 1, and only one quoting protocol is necessary to quote on MRX. Members may choose a greater number of order or quote entry ports, beyond the first FIX Port and the first SQF Port which are proposed to be offered at no cost, depending on that Member's particular business model.[43]

[43] For example, a Member may desire to utilize multiple FIX ports for accounting purposes, to measure performance, for regulatory reasons or

Continued

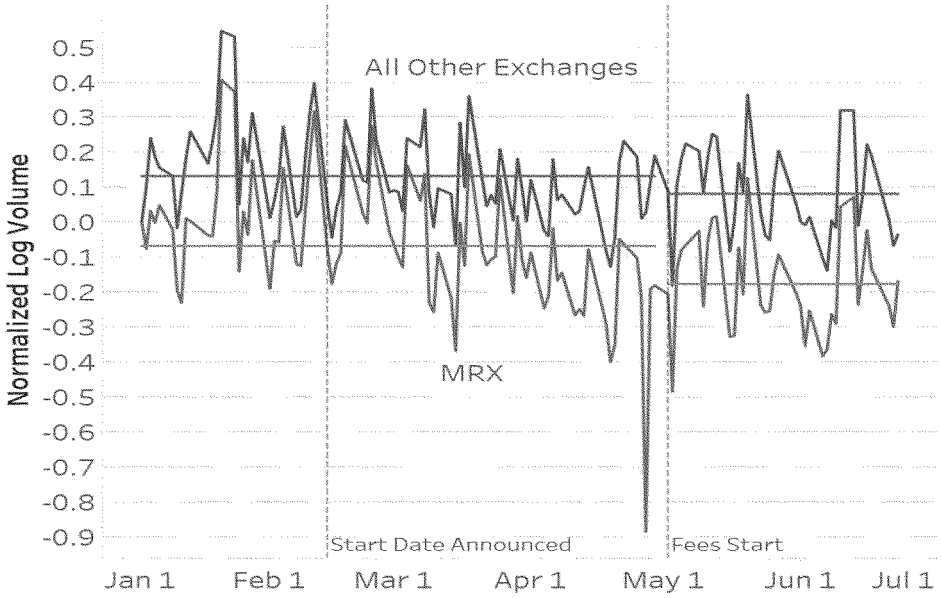
However, Members do not need more than one order entry port and one quote port to submit interest to MRX.

The experience of MRX's affiliates shows that the number of ports that members choose to purchase varies widely. For example, a review of the Phlx exchange in April 2022 shows that, among its member organizations that purchase ports, approximately 26 percent purchased 1 SQF or FIX port, another 26 percent purchased between 2 and 5 ports, 21 percent purchased between 6 and 10 ports, and 28 percent purchased more than 11 ports. This means that any MRX Member has the option of reducing its purchase of port services without purchasing a substitute product by, for example, reconfiguring its systems to change the number of ports from 16 to 14.[44]

By way of comparison, the number of ports that MRX Members purchased in April 2022 also varies widely. For example, approximately 23 percent purchased 1 SQF, FIX or OTTO Port,[45] another 43 percent purchased between 2 and 5 ports, 13 percent purchased between 6 and 10 ports, and 20 percent purchased more than 11 ports. MRX Members, similar to Phlx member organizations, have the option of reducing their port purchases without purchasing a substitute product.

All of these statistics must be viewed in the context of a field with relatively low barriers to entry. MRX, like many new entrants to the field, offered ports for free to establish itself and gain market share. As new entrants enter the field, MRX can also expect competition from these new entrants. Those new entrants, like MRX, are likely to set port, or other fees to zero, increasing marketplace competition. Chart 3 below demonstrates that since the inception of its membership, port and market data fees, MRX volumes declined.

Chart 3: MRX Options Volume as Compared to Options Volume on 15 Other Options Exchanges in 2022[46]



Specifically, since May 2, 2022, MRX saw a larger drop in its average daily volume (-11%) than all other options exchanges (-5%) since MRX's fees were added on May 2, 2022 when compared to their respective year-to-date volumes through April 29, 2022. This pattern indicates that the adoption of MRX membership, port, and market data fees impacted MRX's volume negatively.

In summary, MRX port fees are subject to significant substitution-based competitive forces due to its consistently low percentage of market share, the relatively small number of purchasers for each product, and the purchasers that either cancelled or are reviewing their subscriptions. Implementation of the proposed fees is therefore consistent with the Act.

The Exchange believes that there are many factors that may cause a market participant to decide to become a member of a particular exchange. Among various factors, the Exchange believes market participants consider: (i) an exchange's available liquidity in options series; (ii) trading functionality offered on a particular market; (iii) product offerings; (iv) customer service on an exchange; and (v) transactional pricing. The Exchange believes that the decision to become a member of an exchange, particularly as a registered market maker, is a complex one that is not solely based on non-transactional costs assessed by an exchange. Market participants weigh the tradeoff between where they choose to deploy liquidity versus where trading opportunities exist. Of course, the cost of ports may factor into a decision to become a member of a certain exchange, but the Exchange believes it is by no means the only factor when comparing exchanges.

Market Makers

Market makers play an important role on options exchanges as they provide

other determinations that are specific to that Member.

[44] As noted above, one port would be required to submit orders and one port would be required to submit quotes.

[45] Phlx only offers FIX and SQF ports while MRX offers FIX, OTTO and SQF ports for order and quote entry.

[46] The chart displays the log volume for MRX and all other options exchanges combined. It is ''normalized'' by subtracting each day's value from the first trading day of the year (January 3, 2022). The straight lines represent the average normalized log volumes from January 3, 2022 through April 29, 2022 and from May 2, 2022 through June 23, 2022, respectively.

liquidity. In options markets, registered market makers are assigned options series [47] and are required to quote in those options series for a specified time period during the day.[48] Typically, a lead or primary market maker [49] will be required to quote for a longer period of time during the day as compared to other market makers registered on an exchange.[50] Additionally, market makers are typically required to quote within a certain width on options markets.[51] Greater liquidity on options markets benefits all market participants by providing more trading opportunities and attracting greater participation by market makers. An increase in the activity of market makers in turn facilitates tighter spreads. Market participants are attracted to options markets that have ample liquidity and tighter spreads in options series.

Trading Functionality

An exchange's trading functionality attracts market participants who may elect, for example, to submit an order into a price improving auction,[52] enter a complex order,[53] or utilize a particular order type.[54] Different options exchanges offer different trading functionality to their members. For example, with respect to priority and allocation of an order book, some options exchanges have price/time allocation,[55] some have a size pro-rata allocation,[56] while other exchanges offer both allocation models.[57] The allocation methodology on a particular options exchange's order book may attract certain market participants. Also, the manner in which some options markets structure their solicitation auction,[58] or opening process,[59] may be attractive to certain market participants. Finally, some exchanges have trading floors [60] which may accommodate trading for certain market participants or trading firms.[61]

Product Offerings

Introducing new and innovative products to the marketplace designed to meet customer demands may attract market participants to a particular options venue. New products in the options industry may allow market participants greater trading and hedging opportunities, as well as new avenues to manage risks. The listing of new options products enhances competition among market participants by providing investors with additional investment vehicles, as well as competitive alternatives, to existing investment products. An exchange's proprietary product offering may attract order flow to a particular exchange to trade a particular options product.[62]

Transaction Pricing

The pricing available on a particular exchange may impact a market participant's decision to submit order flow to a particular options venue. The options industry is competitive. Clear substitutes to the Exchange exist in the market for options security transaction services; the Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely, and often do, shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

Fees for Ports

The proposed port fees described below are in line with those of other markets. Setting a fee above competitors is likely to drive away customers, so the most efficient price-setting strategy is to set prices at the same level as other firms.

As noted above, market participants may choose to become a member of one or more options exchanges based on the market participant's business model. A very small number of market participants choose to become a member of all sixteen options exchanges. It is not a requirement for market participants to become members of all options exchanges, in fact, certain market participants conduct an options business as a member of only one options market. Most firms that actively trade on options markets are not currently Members of MRX and do not purchase port services at MRX. Ports are only available to MRX Members or service bureaus, and only an MRX Member may utilize a port.[63]

Using options markets that Nasdaq operates as points of comparison, less than a third of the firms that are members of at least one of the options markets that Nasdaq operates are also Members of MRX (approximately 29%). The Exchange notes that no firm is a Member of MRX only. Few, if any, firms have purchased port services at MRX, notwithstanding the fact that ports are currently free, because MRX currently has less liquidity than other options markets. As explained above, MRX has the smallest market share of the 16 options exchanges, representing only approximately 1.8% of the market, and, for certain market participants, the current levels of liquidity may be insufficient to justify the costs associated with becoming a Member and connecting to the Exchange, notwithstanding the fact that ports are currently free.

The decision to become a member of an exchange, particularly for registered market makers, is complex, and not solely based on the non-transactional costs assessed by an exchange. As noted herein, specific factors include, but are not limited to: (i) an exchange's available liquidity in options series; (ii) trading functionality offered on a particular market; (iii) product offerings; (iv) customer service on an exchange;

[47] *See* Phlx, ISE, GEMX, MRX, BX and NOM Options 2, Section 3; Cboe Exchange, Inc. (''Cboe'') Rule 5.50; BOX Exchange LLC (''BOX'') Rule 8030; MIAX Rule 602; and NYSE Arca, Inc. (''NYSE Arca'') Rule 6.35–O.

[48] *See* ISE, GEMX and MRX, Phlx, BX and NOM Options 2, Section 5; Cboe Rule 5.52; BOX Rule 8050; MIAX Rule 604; and NYSE Arca Rule 6.37A–O.

[49] Options markets refer to the primary market maker on an exchange in several ways.

[50] *See* BX Options 2, Section 4; ISE, GEMX and MRX, and Phlx Options 2, Section 5; BOX Rule 8055; MIAX Rule 604; and NYSE Arca Rule 6.37A–O.

[51] *See* BX Options 2, Section 4; ISE, GEMX and MRX, Phlx and NOM Options 2, Section 5; and Cboe Rule 5.52; BOX Rule 8040.

[52] *See* ISE, GEMX, MRX, Phlx and BX Options 3, Section 13; MIAX Rule 515A; Cboe Rule 5.37; and BOX Rules 7150 and 7245.

[53] *See* Phlx and ISE Options 3, Section 14; MIAX Rule 518; Cboe Rule 5.33; BOX Rule 7240; and NYSE Arca Rule 6.91–O.

[54] *See* ISE, GEMX, MRX, Phlx, BX and NOM Options 3, Section 7; MIAX Rule 615; Cboe Rule 5.6; BOX Rule 7110; and NYSE Arca Rule 6.62–O.

[55] *See* Cboe Rule 5.85; BOX Rule 7130; and NYSE Arca Rule 6.76–O.

[56] *See* Phlx, ISE, GEMX and MRX Options 3, Section 10; and BOX Rule 7135.

[57] *See* BX Options 3, Section 10. While BX's rule permits both price/time and size pro-rata allocation, all symbols on BX are currently designated as Price/Time. *See also* BOX Rules 7130 and 7135. MIAX's rule permits both Price-Time and Pro-Rata allocation. *See also* MIAX Rule 514.

[58] *See* ISE, GEMX and MRX Options 3, Section 11; NYSE American Rules 971.1NY and 971.2NY; and Cboe Rule 5.39.

[59] *See* ISE, GEMX, MRX, Phlx, BX and NOM Options 3, Section 8; Cboe Rule 5.31, MIAX Rule 503, BOX Rule 7070, and NYSE Arca Rule 6.64–O.

[60] Today, Phlx, Cboe, BOX, NYSE Arca, and NYSE American LLC have an options trading floor. Trading floors require an on-floor presence to execute options transactions.

[61] There are certain features of open outcry trading that are difficult to replicate in an electronic trading environment. The Exchange has observed, and understands from various market participants, that they have difficulty executing certain orders, such as larger orders and high-risk and complicated strategies, in an all-electronic trading configuration without the element of human interaction to negotiate pricing for these orders.

[62] *See e.g.,* options on the Nasdaq-100 Index® available on ISE, GEMX and Phlx as well as Cboe's Market Volatility Index®. Currently, MRX does not list any proprietary products.

[63] Service bureaus may obtain ports on behalf of Members. The Exchange would only assign a badge and/or mnemonic to a Member to be utilized to submit quotes and/or orders to the Exchange.

and (v) transactional pricing. Becoming a member of the exchange does not ''lock'' a potential member into a market or diminish the overall competition for exchange services. The decision to become a member of an exchange is made at the beginning of the relationship, and is no less subject to competition than trading fees or ports.

In lieu of becoming a member at each options exchange, a market participant may join one exchange and elect to have their orders routed in the event that a better price is available on an away market. Nothing in the Order Protection Rule requires a firm to become a Member at MRX.[64] If MRX is not at the NBBO, MRX will route an order to any away market that is at the NBBO to prevent a trade-through and also ensure that the order was executed at a superior price.[65]

With respect to the submission of orders, Members may also choose not to purchase any port at all from the Exchange, and instead rely on the port of a third party to submit an order.[66] For example, a third-party broker-dealer Member of MRX may be utilized by a retail investor to submit orders into an Exchange. An institutional investor may utilize a broker-dealer, a service bureau,[67] or request sponsored access [68] through a member of an exchange in order to submit a trade directly to an options exchange.[69] A market participant may either pay the costs associated with becoming a member of an exchange or, in the alternative, a market participant may elect to pay commissions to a broker-dealer, pay fees to a service bureau to submit trades, or pay a member to sponsor the market participant in order to submit trades directly to an exchange. Market participants may elect any of the above models and weigh the varying costs when determining how to submit trades to an exchange. Depending on the number of orders to be submitted, technology, ability to control submission of orders, and projected revenues, a market participant may determine one model is more cost efficient as compared to the alternatives.

Only if a market participant elects to become a Member of MRX will the market participant need to utilize a port to submit orders and/or quotes into MRX. Once an applicant is approved for membership on MRX and becomes a Member, the Exchange assigns the Member a badge [70] and/or mnemonic [71] to submit quotes and/or orders to the Exchange through the applicable port. An MRX Member may have one or more accounts numbers and may assign badges or mnemonics to those account numbers. Membership approval grants a Member a right to exercise trading privileges on MRX, which includes the submission of orders and/or quotes into the Exchange through a secure port by utilizing the badge and/or mnemonic assigned to a specific Member by the Exchange. The Exchange utilizes ports as a secure method for Members to submit orders and/or quotes into the Exchange's match engine and for the Exchange to send messages related to those orders and/or quotes to its Members.

MRX is obligated to regulate its Members and secure access to its environment. In order to properly regulate its Members and secure the trading environment, MRX takes measures to ensure access is monitored and maintained with various controls. Ports are a method utilized by the Exchange to grant Members secure access to communicate with the Exchange and exercise trading rights. When a market participant elects to be a Member of MRX, and is approved for membership by MRX, the Member is granted trading rights to enter orders and/or quotes into MRX through secure ports.

As noted herein, there is no legal or regulatory requirement that a market participant become a Member of MRX, or, if it is a Member, to purchase port services beyond the one quoting protocol or one order entry protocol necessary to quote or submit orders on MRX, which the Exchange proposes to provide at no cost in addition to one FIX Disaster Recovery Port and one SQF Disaster Recovery Port, which are also being provided at no cost.[72] As noted above, Members may freely choose to rely on one or many ports, depending on their business model.

The Exchange's proposal to amend port fees is reasonable, equitable and not unfairly discriminatory as MRX is providing MRX Electronic Access Members one FIX Port to submit orders and MRX Market Makers one SQF Port to submit quotes to MRX, at no cost, in addition to providing one FIX Disaster Recovery Port and one SQF Disaster Recovery Port at no cost; all other ports offered by MRX are optional.

The proposed fees reflect the ongoing services provided to maintain and support the ports. In order to submit orders into MRX, only one order protocol is required, and MRX is providing Electronic Access Members one FIX Port at no cost. Quoting protocols are only required to the extent an MRX Member has been appointed as a Market Maker in an options series pursuant to Options 2, Section 1. Similarly, only one quoting protocol is necessary to quote on MRX and MRX is providing Market Makers one SQF Port at no cost. As noted above, only Members may utilize ports. A Member can send all orders, proprietary and agency, through one port to MRX and all quotes through one port. Therefore, for the foregoing reasons, it is reasonable to assess no fee for the first FIX Port obtained by an Electronic Access Member or the first SQF Port obtained by a Market Maker. Further it is equitable and not unfairly discriminatory to assess no fee for the first FIX Port to Electronic Access Members as all Electronic Access Members would be entitled to one FIX Port at no cost. Also, it is equitable and not unfairly discriminatory to assess no fee for the first SQF Port to Market Makers as all Market Makers would be entitled to one SQF Port at no cost.

The Exchange's proposal to assess Members $650 per port, per month, per account number for FIX Ports beyond the first port and $1,250 per port, per month for SQF Ports beyond the first port is reasonable because these ports are optional and Members only require one FIX Port to submit orders to MRX

[64] *See* Options Order Protection and Locked/Crossed Market Plan (August 14, 2009), available at *https://www.theocc.com/getmedia/7fc629d9-4e54-4b99-9f11-c0e4db1a2266/options_order_protection_plan.pdf.*

[65] MRX Members may elect to not route their orders by marking an order as ''do-not-route.'' In this case, the order would not be routed. *See* Options 3, Section 7(m).

[66] Market Makers on MRX are required to obtain one SQF port to submit quotes into MRX.

[67] Service bureaus provide access to market participants to submit and execute orders on an exchange. On MRX, a Service Bureau may be a Member. Some MRX Members utilize a Service Bureau for connectivity and that Service Bureau may not be a Member. Some market participants utilize a Service Bureau who is a Member to submit orders. As noted herein only MRX Members may submit orders or quotes through ports.

[68] Sponsored Access is an arrangement whereby a member permits its customers to enter orders into an exchange's system that bypass the member's trading system and are routed directly to the Exchange, including routing through a service bureau or other third-party technology provider.

[69] This may include utilizing a Floor Broker and submitting the trade to one of the five options trading floors.

[70] A ''badge'' shall mean an account number, which may contain letters and/or numbers, assigned to Market Makers. A Market Maker account may be associated with multiple badges. *See* MRX Options 1, Section 1(a)(5).

[71] A ''mnemonic'' shall mean an acronym comprised of letters and/or numbers assigned to Electronic Access Members. An Electronic Access Member account may be associated with multiple mnemonics. *See* MRX Options 1, Section 1(a)(23).

[72] Only Members and service bureaus may request ports on MRX, and only Members may utilize ports on MRX through their assigned badge or mnemonic. *See* Options 1, Section 1(a)(5) and (23).

and one SQF Port to submit quotes to MRX. Additionally, to the extent a Member expended more than $7,500 for FIX Ports or more than $17,500 for SQF Ports, the Exchange would not charge an MRX Member for additional FIX or SQF Ports beyond the cap. The fees for the proposed additional FIX and SQF Ports are equitable and not unfairly discriminatory because any Member may elect additional ports. Electronic Access Members would be subject to the same fees for FIX Ports and Market Makers would be subject to the same fees for SQF Ports. Unlike other market participants, Market Makers are required to provide continuous two-sided quotes on a daily basis,[73] and are subject to various obligations associated with providing liquidity.[74] Also, account numbers are free on MRX.

The Exchange's proposal to assess $650 per port, per month, per account number for an OTTO Port is reasonable because OTTO is optional. The Exchange is offering a FIX Port at no cost to submit orders to MRX. In addition to the FIX Port, all Members may elect to purchase OTTO to submit orders to MRX. Unlike FIX, which offers routing capability, OTTO does not permit routing. Depending on a Member's business model, Members may elect to purchase an OTTO Port in addition to the FIX Port, which is being provided at no cost. Members may prefer one protocol as compared to another protocol. For example, the ability to route may cause a Member to utilize FIX and a Member that desires to execute an order locally may utilize OTTO. Also, the OTTO Port offers lower latency as compared to the FIX Port, which may be attractive to Members depending on their trading behavior. MRX Members utilizing the FIX Por, which is offered at no cost, do not need to utilize OTTO. Members may elect to utilize both order entry protocols, depending on how they organize their business. OTTO provides MRX Members with an additional choice as to the type of protocol that they may use to submit orders to the Exchange. Today, Phlx and BX offer only a FIX Port to submit orders on those options markets.[75] The proposed OTTO fee is equitable and not unfairly discriminatory because any Member may elect to purchase an optional OTTO Port and would be subject to the same fee.

The Exchange's proposal to offer an SQF Purge Port for $1,250 per port, per month is reasonable because this port is optional. The SQF Purge Port is designed to assist Market Makers in the management of, and risk control over, their quotes. Market Makers may utilize a purge port to reduce uncertainty and to manage risk by purging all quotes in their assigned options series. Of note, Market Makers may only enter interest into SQF in their assigned options series. Additionally, the SQF Purge Port may be utilized by a Market Maker in the event that the Member has a system issue and determines to purge from the order book. The SQF Purge Port is optional as Market Makers have various ways of purging their quotes from the order book. First of all, a Market Maker may cancel quotes through SQF in their assigned options series in the same manner as they may cancel quotes with an SQF Purge Port. Second, TradeInfo permits the cancellation of open orders at the order, port or firm mnemonic level.[76] Third, in the event of a loss of communication with the Exchange, MRX offers the ability to cancel all of a Member's open quotes via a cancel-on-disconnect control.[77] Fourth, MRX offers Market Makers the ability, with respect to simple orders, to establish pre-determined levels of risk exposure which would be utilized to automatically remove quotes in all series of an options class.[78] Accordingly, the Exchange believes that the SQF Purge Port provides an efficient alternative to other available services which allow a Market Maker to cancel quotes. The proposed SQF Purge Port is equitable and not unfairly discriminatory because any Member may elect to purchase an optional SQF Purge Port and would be subject to the same fee.

The Exchange's proposal to assess $650 per port, per month for CTI Ports and FIX DROP Ports is reasonable because these ports are optional because Members have various ways of receiving information concerning open orders and executed transactions. First, FIX and OTTO provide Members with real-time order executions similar to the Clearing Trade Interface and FIX DROP. Second, TradeInfo provides Members with the ability to query open orders and order executions real-time, at no cost, similar to the Clearing Trade Interface and FIX DROP. Third, Members receive free daily reports listing open orders and trade executions, while not real-time, the Open Orders Report and Trade Detail Report provides Members with information similar to the Clearing Trade Interface and FIX DROP. The proposed CTI and FIX DROP Ports are equitable and not unfairly discriminatory because any Member may elect to purchase an optional CTI Port or FIX DROP Port and would be subject to the same fee.

The Exchange's proposal to assess no fee for the first FIX Disaster Recovery Port or the first SQF Disaster Recovery Port is reasonable because it will provide Members with continuous access to MRX in the event of a failover, at no cost. Further it is equitable and not unfairly discriminatory to assess no fee for the first FIX Disaster Recovery Port to Electronic Access Members as all Electronic Access Members would be entitled to one FIX Disaster Recovery Port at no cost. Also, it is equitable and not unfairly discriminatory to assess no fee for the first SQF Disaster Recovery Port to Market Makers as all Market Makers would be entitled to one SQF Disaster Recovery Port at no cost.

The Exchange's proposal to assess Members $50 per port, per month, per account number for optional FIX Disaster Recovery Ports beyond the first port offered at no cost and $50 per port, per month, per account number for optional SQF Disaster Recovery Ports beyond the first port offered at no cost is reasonable because these ports are optional and Members only require one FIX Disaster Recovery Port to submit orders to MRX in the event of a failover and one SQF Disaster Recovery Port to submit quotes to MRX in the event of a failover. Additionally, to the extent a Member expended more than $7,500 for Disaster Recovery Ports, the Exchange would not charge an MRX Member for additional Disaster Recovery Ports beyond the cap. The fees for the proposed additional FIX and SQF Disaster Recovery Ports are equitable and not unfairly discriminatory because any Member may elect additional ports and would be subject to the same fees.

The Exchange's proposal to offer Disaster Recovery Ports for SQF Purge Ports, and OTTO Ports at $50 per port, per month, per account number and CTI Ports, and FIX DROP Ports for $50 per port, per month is reasonable because these ports are optional. As noted herein, there are other alternatives for all of these ports today, the purchase of an SQF Purge Port, OTTO Port, CTI Port, and FIX DROP Port in production is optional and, therefore, so is the purchase of Disaster Recovery Ports for these ports. The proposed Disaster Recovery Port fees are intended to encourage Members to be efficient when

[73] *See* MRX Options 2, Section 5.

[74] *See* MRX Options 2, Section 4.

[75] *See* Phlx and BX Options 3, Section 7 for a list of protocols.

[76] TradeInfo is free.

[77] *See* MRX Options 3, Section 18, Detection of Loss. This risk protection is free.

[78] *See* MRX Options 3, Section 15(a)(3)(B). Thresholds may be set by Members based on percentage, volume, delta or vega. This risk protection is free.

purchasing Disaster Recovery Ports. The proposed Disaster Recovery Ports are equitable and not unfairly discriminatory because any Member may elect to purchase an optional Disaster Recovery Port and would be subject to the same fee, depending on the port.

Finally, in the event that an MRX Member elects to subscribe to multiple ports, the Exchange offers a monthly cap beyond which a Member would be assessed no additional fees for month. As noted above, the SQF Port and the SQF Purge Port are subject to a monthly cap of $17,500 and the OTTO Port, CTI Port, FIX Port, FIX Drop Port and all Disaster Recovery Ports are subject to a monthly cap of $7,500. These caps are reasonable because they allow Members to cap their fees beyond a certain level if they elect to purchase multiple ports in a given month. The caps are also equitable and not unfairly discriminatory because any Member will be subject to the cap, provided they exceeded the appropriate dollar amount in a given month.

The proposed port fees are similar to the fees assessed by GEMX.[79]

After 6 years, MRX proposes to commence assessing port fees, just as all other options exchanges. The introduction of these fees will not impede a Member's access to MRX, but rather will allow MRX to continue to compete and grow its marketplace so that it may continue to offer a robust trading architecture, a quality opening process, an array of simple and complex order types and auctions, and competitive transaction pricing. If MRX is incorrect in its assessment of the value of its services, that assessment will be reflected in MRX's ability to compete with other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes its proposal remains competitive with other options markets, and will offer market participants with another choice of venue to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

By way of example, today, with the exception of Precise, ISE has identical functionality to MRX. Market participants may elect to become members of ISE instead of MRX if those market participants believe that the order flow on ISE provides more value than the order flow on MRX. ISE has more market share (6.2%) as compared to MRX (1.8%). A market participant may evaluate the fees assessed by ISE, its market share, and proprietary products, among other things, and determine to become a member of ISE instead of MRX if it determines the proposed fees to be unreasonable.

The proposed port fees are similar to port fees assessed by GEMX[80] for similar connectivity. As a consequence, competition will not be burdened by the proposed fees. Only one order protocol is required to submit orders to MRX, and the Exchange proposes to offer one FIX Port and one FIX Disaster Recovery Port to Electronic Access Members at no cost. This would provide Members with the ability to continuously submit orders to MRX, even in the event of a failover. Likewise, only one quoting protocol is required to submit quotes to MRX, and the Exchange proposes to offer one SQF Port and one SQF Disaster Recovery Port to Market Makers at no cost. This would provide Market Makers with the ability to continuously submit quotes to MRX, even in the event of a failover.

Only one account number is necessary per Member and account numbers are free.

The remainder of the proposed port fees are for optional ports (additional FIX and SQF Ports, additional FIX and SQF Disaster Recovery Ports, SQF Purge Port, OTTO Port, CTI Port, FIX DROP Port and Disaster Recovery Ports for SQF Purge Ports, OTTO Ports, CTI Ports, and FIX DROP Ports). These different protocols are not all necessary to conduct business on MRX. Members choose among the protocols based on their business workflow. The proposed fees do not impose an undue burden on competition because the Exchange would uniformly assess the port fees to all Members and would uniformly apply monthly caps. Market participants may also connect to third parties instead of directly to the Exchange.

With respect to the higher fees assessed for SQF Ports and SQF Purge Ports, the Exchange notes that only Market Makers may utilize these ports. Market Makers are required to provide continuous two-sided quotes on a daily basis,[81] and are subject to various obligations associated with providing liquidity.[82] As a result of these quoting obligations, the SQF Port and SQF Purge Port are designed to handle higher throughput to permit Market Makers to bundle orders to meet their obligations. The technology to permit Market Makers to submit a greater number of quotes, in addition to the various risk protections[83] afforded to these market participants when quoting, accounts for the higher SQF Port and SQF Purge Port fees. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by Market Makers. Also, an increase in the activity of Market Makers in turn facilitates tighter spreads.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[84] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[79] *See* GEMX Options 7, Section 6.C. (Ports and Other Services).

[80] *See* GEMX Options 7, Section 6.C. (Ports and Other Services).

[81] *See* MRX Options 2, Section 5.

[82] *See* MRX Options 2, Section 4.

[83] *See* MRX Options 3, Section 15(a)(3). Market Makers are offered risk protections to permit them to manage their risk more effectively.

[84] 15 U.S.C. 78s(b)(3)(A)(ii).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2022–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2022–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2022–09 and should be submitted on or before August 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[85]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15223 Filed 7–15–22; 8:45 am]

BILLING CODE 8011–01–P

[85] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17524; Alaska Disaster Number AK–00052 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of Alaska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of ALASKA dated 07/12/2022.

Incident: Lowell Point Landslide and Lowell Point Road Closure.

Incident Period: 05/07/2022 through 06/10/2022.

DATES: Issued on 07/12/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 04/12/2023.

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 EIDL declaration, applications for economic injury 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: Kenai Peninsula Borough.

Contiguous Counties:

Alaska: Chugach REAA, Iditarod Area REAA, Kodiak Island Borough, Lake and Peninsula Borough, Matanuska-Susitna Borough, Municipality of Anchorage.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for economic injury is 175240.

The State which received an EIDL Declaration #17524 is Alaska.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–15264 Filed 7–15–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17522 and #17523; MICHIGAN Disaster Number MI–00108]

Administrative Declaration of a Disaster for the State of Michigan

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Michigan dated 07/12/2022.

Incident: Tornado.

Incident Period: 05/20/2022.

DATES: Issued on 07/12/2022.

Physical Loan Application Deadline Date: 09/12/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 04/12/2023.

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: Otsego.

Contiguous Counties:

Michigan: Antrim, Charlevoix, Cheboygan, Crawford, Kalkaska, Montmorency, Oscoda.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	5.870
Businesses without Credit Available Elsewhere	2.935
Non-Profit Organizations with Credit Available Elsewhere	1.875

	Percent
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17522 C and for economic injury is 17523 0.

The State which received an EIDL Declaration # is Michigan.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–15263 Filed 7–15–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice 11785]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Bámigbóyè: A Master Sculptor of the Yorùbá Tradition'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Bámigbóyè: A Master Sculptor of the Yorùbá Tradition'' at the Yale University Art Gallery, New Haven, Connecticut, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is 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. 2022–15249 Filed 7–15–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11787]

Overseas Security Advisory Council (OSAC) Meeting Notice; Closed Meeting

The Department of State announces an amendment to the meeting of the U.S. State Department's Overseas Security Advisory Council originally schedule November 15, 2022. The new meeting date will now be November 17, 2022. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agenda will include updated committee reports, global threat overviews, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Rebecca Spingarn, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone: 571–228–3221.

Kevin E. Bryant,

Acting Director, Office of Directives Management, Department of State.

[FR Doc. 2022–15276 Filed 7–15–22; 8:45 am]

BILLING CODE 4710–43–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 519 (Sub-No. 4)]

Notice of National Grain Car Council Meeting

AGENCY: Surface Transportation Board.

ACTION: Notice of National Grain Car Council meeting.

SUMMARY: Notice is hereby given of a meeting of the National Grain Car Council (NGCC), pursuant to the Federal Advisory Committee Act.

DATES: The meeting will be held on Thursday, August 25, 2022, beginning at 1:00 p.m. (CDT), and is expected to conclude at 5:00 p.m. (CDT).

ADDRESSES: The meeting will be held at The Westin Kansas City at Crown Center, 1 East Pershing Road, Kansas City, MO 64108.

FOR FURTHER INFORMATION CONTACT: Alan Cassiday at (202) 245–0308 or *alan.cassiday@stb.gov*.

SUPPLEMENTARY INFORMATION: The NGCC was established by the Interstate Commerce Commission (ICC) as a working group to facilitate private-sector solutions and provide recommendations to the ICC (and now the Surface Transportation Board (Board)) on matters affecting rail grain car availability and transportation. *Nat'l Grain Car Supply—Conference of Interested Parties,* EP 519 (ICC served Jan. 7, 1994).

The general purpose of this meeting is to discuss rail carrier preparedness to transport the 2022 grain harvest. Agenda items include the following: remarks by NGCC Chair Shane Berrett, Board Chairman Martin J. Oberman, Board Vice Chairman and NGCC Co-Chair Michelle A. Schultz, and Board Members Patrick J. Fuchs, Karen J. Hedlund, and Robert E. Primus; reports by member groups on expectations for the upcoming harvest, domestic and foreign markets, the supply of rail cars, and rail service; and market and industry updates. The full agenda will be posted on the Board's website at *www.stb.gov/resources/stakeholder-committees/grain-car-council*.

The meeting will be conducted pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2; Federal Advisory Committee Management, 41 CFR part 102–3; the NGCC charter; and Board procedures.

Public Attendance: This meeting is open to the public on a space-available, first-come first-served basis.

Public Comments: Members of the public may submit written comments to the NGCC at any time. Comments should be addressed to Alan Cassiday, Designated Federal Officer for the NGCC, at *alan.cassiday@stb.gov*. Any further communications about this meeting will be announced through the Board's website, *www.stb.gov*.

Decided: July 12, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2022–15239 Filed 7–15–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at Camdenton Memorial-Lake Regional Airport (OZS), Camdenton, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release of airport land.

SUMMARY: The FAA proposes to rule and invites public comment on the request to release and sell two parcels of land totaling 1.03 acres of federally obligated airport property at the Camdenton Memorial-Lake Regional Airport (OZS), Camdenton, Missouri.

DATES: Comments must be received on or before August 17, 2022.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Jeffrey J. Hooker, City Administrator, City of Camdenton, 437 W US Hwy. 54, Camdenton, MO 65020, (573) 346–3600.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106, (816) 329–2603, *amy.walter@faa.gov.* The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release two parcels of land totaling 1.03 acres of airport property at the Camdenton Memorial-Lake Regional Airport (OZS) under the provisions of 49 U.S.C. 47107(h)(2). The City of Camdenton requested a release from the FAA to sell one parcel, totaling approximately 0.26 acres, to Camden County for road right-of-way and one parcel totaling approximately 0.47 acres, to an adjoining property owner, James E. Newman. The FAA determined this request to release and sell property at the Camdenton Memorial Lake-Regional Airport (OZS) submitted by the Sponsor meets the procedural requirements of the FAA and the release and sale of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The following is a brief overview of the request:

The Camdenton Memorial-Lake Regional Airport (OZS) is proposing the release and sale of a two parcels of airport property containing 1.03 acres. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Camdenton Memorial-Lake Regional Airport (OZS) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances in order to sell the land. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation use.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may request an appointment to inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Camdenton City Hall.

Issued in Kansas City, MO, on July 8, 2022.

James A. Johnson,

Director, FAA Central Region, Airports Division.

[FR Doc. 2022–14986 Filed 7–15–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket: FAA–2022–0655]

Notice of Availability of the Finding of No Significant Impact and Record of Decision and Adoption of the United States Department of the Navy Environmental Assessment for the Establishment of Restricted Area R–2511 at Naval Air Weapons Station China Lake, CA

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

ACTION: Notice of Availability of the Finding of No Significant Impact (FONSI)/Record of Decision (ROD).

SUMMARY: The Federal Aviation Administration (FAA) announces its decision to adopt the Department of the Navy (DON) *Final Environmental Assessment—Establishment of Restricted Area R–2511 at Naval Air Weapons Station China Lake, California.* The Environmental Assessment (EA) underwent a 15 day public comment period from June 17, 2021 to July 2, 2021 and no comments were received. This notice announces that, based on its independent review and evaluation of the EA and supporting documents, the FAA is adopting the EA and issuing a FONSI/ROD for the establishment of the Restricted Area (RA) R–2511.

FOR FURTHER INFORMATION CONTACT: Ryan Weller, Operations Support Group, Western Service Center, 2200 216th Street, Des Moines, WA 98198; telephone (206) 231–2286.

SUPPLEMENTARY INFORMATION: The FAA's Proposed Action would be entirely airspace-based and would establish a Special Use Airspace (SUA), consisting of one RA. The new SUA would connect the existing RAs R–2505 and R–2524. The new RA would be titled R–2511 and would have the same dimensions as the existing Trona Controlled Firing Area (TCFA). The FAA's Proposed Action would not change or modify existing military flight activities or weapons testing occurring within the SUA. Aircraft activities would be consistent with those already occurring in the airspace.

The RA would help notify, advise, and alert other pilots to where military training activity could be occurring. The RA would be established when determined necessary to confine or segregate activities considered hazardous to non-participating aircraft, which is defined as any aircraft

(military or civilian) that is not actively involved in the research, development, acquisition, test, and evaluation (RDAT&E) activities within the RA when activated. Itinerant (non-local) or other aircraft not familiar with DON RDAT&E activities would now be made aware of the military flight activity more formally, by the existence of the RA on the FAA Sectional Aeronautical Chart. The RA would be mapped on the FAA Los Angeles Sectional Chart and knowledge of its activation would prompt all pilots to take notice of existing military flight activity, resulting in better awareness and coordination. Non-participating aircraft would not be allowed in the RA when activated.

Implementation

After evaluating the aeronautical study and the EA, the FAA has issued a FONSI/ROD to establish R–2511. The RA would improve flight safety for all pilots (civilian, commercial and military) while improving the capability of the DON to conduct RDAT&E and training activities. The R–2511 would create a linkage between existing R–2505 and R–2524, covering an area of approximately 87 square miles. The designated altitudes are at 6,000 feet (ft) mean sea level (MSL) to, but not including, flight level (FL) 200 (20,000 ft MSL). The times of use are between 0700–1700 pacific time, Monday through Friday. Activation of the RA is by Notice to Air Missions (NOTAM) at least seven days in advance. Operations would be scheduled for two-hour blocks, with a maximum of two blocks authorized per day. Annual operations would be conducted within the R–2511 up to 36 days per year.

In accordance with Section 102 of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's (CEQ) regulations for implementing NEPA (40 CFR parts 1500–1508), and other applicable authorities (including FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 8–2, and FAA Order JO 7400.2M, Procedures for Handling Airspace Matters, paragraph 32–2–3), the FAA has conducted an independent review and evaluation of the DON's EA. As a cooperating agency with responsibility for approving SUA under 49 U.S.C. 40103(b)(3)(A), the FAA provided subject matter expertise and coordinated with the DON during the environmental review process.

The FONSI/ROD and EA are available on the FAA website at: *https://www.faa.gov/air_traffic/environmental_issues/.*

Issued in Des Moines, WA, on July 12, 2022.

Ryan Wade Weller,

Environmental Protection Specialist, Operation Support Group, Western Service Area.

[FR Doc. 2022–15210 Filed 7–15–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0278]

Hours of Service of Drivers: Application for Exemption; Harris Companies, Inc. (Harris)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of exemption.

SUMMARY: FMCSA announces its decision to deny the Harris Companies, Inc. (Harris) application for exemption from the electronic logging device (ELD) rule for all its employees who are required to prepare records of duty status (RODS). This includes elevator technicians, electricians, other general laborers, and welders who operate commercial motor vehicles (CMVs) in interstate commerce. FMCSA has analyzed the exemption application and the public comments and determined that the applicant has not demonstrated that it would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the requested exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division: Telephone: (202) 366–4225 or *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this notice as being available in the docket, go to *www.regulations.gov* and insert the docket number, ''FMCSA–2020–0171 in the ''Keyword'' box and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. 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, between 9 a.m. and 5 p.m., e.t., 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to five years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

Harris, a family-owned and operated company comprised of an elevator division and an electric division, applied for an exemption from the use of ELDs required under 49 CFR 395.8. The exemption would cover the company's 14 elevator technicians and electricians and seven general laborers and welders who operate CMVs. The company currently uses electronic devices to document hours of service (HOS). However, given internet connectivity issues affecting operation of its ELDs, Harris requested the exemption to allow it to resume the use of paper RODS.

IV. Public Comments

On December 13, 2019, FMCSA published notice of the Harris application for exemption and requested public comment (84 FR 68287). The Agency received three comments, two opposing and one supporting the exemption request. The Commercial

Vehicle Safety Alliance (CVSA) opposed this exemption, describing it as ''both unjustified and impractical.'' The CVSA noted that, ''if granted, this exemption would negatively impact safety and place an excessive burden on the enforcement community. The Federal HOS requirements exist to help prevent and manage driver fatigue.'' Mr. Michael Millard also opposed the request, stating that ''[the] Harris Companies application for an exception from ELDs is most likely based on its small size and its thoughts on an added expense for installing ELDs.'' In response to an opposing commenter, Harris filed a comment in favor of its own application. Harris' comment

emphasized the inability of its current ELDs to operate properly in rural areas with little to no internet connection.

V. Method To Ensure an Equivalent or Greater Level of Safety

To ensure an equivalent level of safety, Harris offered company safety policies and procedures. Harris referenced several ongoing company training programs to ensure compliance with the various Federal Motor Carrier Safety Regulations. These training programs include general safety and compliance policies, vehicle operating policies, HOS training and compliance, drug and alcohol testing procedures, and risk management services. In addition, Harris offered the continuous use of paper RODS for recording and tracking their drivers' HOS compliance.

VI. FMCSA Response and Decision

FMCSA has evaluated the Harris application for exemption and the public comments submitted. When the Agency adopted the ELD rule in 2015, as mandated by Congress, it determined that ELDs would improve CMV safety and reduce the overall paperwork burden for both motor carriers and drivers. ELDs have led to improved compliance with the applicable HOS rules. Harris has failed to provide a sufficient analysis of the safety impacts of the requested exemption or adequate countermeasures to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations. For these reasons, FMCSA denies the request for exemption.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–15224 Filed 7–15–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2022–0052 (Notice No. 2022–11)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on information collections pertaining to hazardous materials transportation for which PHMSA intends to request renewal and extension from the Office of Management and Budget. Additionally, we note that on May 3, 2022, a notice with a 60-day comment period soliciting comments on these information collections was published in the **Federal Register**, and PHMSA did not receive any comments on it.

DATES: Interested persons are invited to submit comments on or before August 17, 2022.

ADDRESSES: Written comments and recommendations for the information collections should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find these particular information collections by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

We invite comments on: (1) whether the collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the information collections; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Docket: For access to the Dockets to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Andrews or T. Glenn Foster, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8 (d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests PHMSA previously published in a 60-day notice [1] seeking comments and is now submitting to the Office of Management and Budget (OMB) for renewal and extension.

These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171 through 180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collection was last approved. The following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for the information collection activity and will publish a notice in the **Federal Register** alerting the public to OMB's approval.

PHMSA requests comments on the following information collection:

Title: Radioactive (RAM) Transportation Requirements.

OMB Control Number: 2137–0510.

Summary: This information collection consolidates and describes the information collection provisions in the HMR involving the transportation of radioactive materials in commerce. Information collection requirements for RAM include: documenting testing and engineering evaluations for packages, documenting DOT 7A packages, revalidating foreign competent authority certifications, providing specific written instruction of exclusive use shipment controls, providing written instructions for exclusive use shipment controls, obtaining U.S. competent authority for package design, registering with U.S. competent authority as user of a package, and requesting a U.S.

[1] *See* the 60-day notice published under Docket No. PHMSA–2022–0052 (Notice No. 2022–09), on May 3, 2022 [87 FR 26259] at: *https://www.federalregister.gov/documents/2022/05/03/2022-09408/hazardous-materials-information-collection-activities.*

competent authority for a special form of radioactive material. The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Document Test and Engineering Evaluation or Comparative Data for Packaging—Reporting	50	100	40	4,000
DOT Specification 7A Package Documentation—Reporting	50	100	80	8,000
DOT Specification 7A Package Documentation—Recordkeeping	50	500	0.0833	41.67
Revalidation of Foreign Competent Authority Certification—Reporting	25	25	80	2,000
Offeror Providing Specific Written Instruction of Exclusive Use Shipment Controls to the Carrier—Reporting	100	2,000	0.5	1,000
Offeror Obtaining U.S. Competent Authority for Package Design—Reporting	10	40	2	80
Register with U.S. Competent Authority as User of a Package—Reporting	25	50	0.5	25
Request for a U.S. Competent Authority as Required by the IAEA Regulations for Special Form—Reporting	10	100	2	200

Affected Public: Shippers and carriers of radioactive materials in commerce.

Annual Reporting and Recordkeeping Burden

Number of Respondents: 320.

Total Annual Responses: 2,915.

Total Annual Burden Hours: 15,346.67.

Frequency of Collection: On occasion.

Title: Subsidiary Hazard Class and Number/Type of Packagings.

OMB Control Number: 2137–0613.

Summary: The HMR require that shipping papers and emergency response information accompany each shipment of hazardous materials in commerce. Shipping papers serve as a principal means of identifying hazardous materials during transportation emergencies. Firefighters, police, and other emergency response personnel are trained to obtain the DOT shipping papers and emergency response information when responding to hazardous materials transportation emergencies. The availability of accurate information concerning hazardous materials being transported significantly improves response efforts in these types of emergencies.

In addition to the basic shipping description information on shipping papers, we also require the subsidiary hazard class or subsidiary division number(s) to be entered in parentheses following the primary hazard class or division number on shipping papers. This requirement was originally required only by transportation by vessel. However, the lack of such a requirement posed problems for motor carriers regarding compliance with segregation, separation, and placarding requirements, as well as posing a safety hazard. For example, in the event the motor vehicle becomes involved in an accident, when the hazardous materials being transported include a subsidiary hazard such as ''dangerous when wet'' or a subsidiary hazard requiring more stringent requirements than the primary hazard, there is no indication of the subsidiary hazards on the shipping papers and no indication of the subsidiary risks on placards. Under circumstances such as motor vehicles being loaded at a dock, labels are not sufficient to alert hazardous materials employees loading the vehicles, nor are they sufficient to alert emergency responders of the subsidiary risks contained on the vehicles. Therefore, we require the subsidiary hazard class or subsidiary division number(s) to be entered on the shipping paper for purposes of enhancing safety and international harmonization.

The following information collection and burden is associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Seconds per response	Total annual burden hours
Subsidiary Hazard Class on Shipping Papers	260,000	43,810,000	2	24,339

Affected Public: Shippers and carriers of hazardous materials in commerce.

Annual Reporting and Recordkeeping Burden

Number of Respondents: 260,000.

Total Annual Responses: 43,810,000.

Total Annual Burden Hours: 24,339.

Frequency of Collection: On occasion.

Issued in Washington, DC, on July 13, 2022.

Shane C. Kelley,

Director, Standards and Rulemaking,Office of Hazardous Materials Safety,Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2022–15252 Filed 7–15–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket No. BTS–2022–XXXX]

Agency Information Collection Activities; New Information Collection: Freight Logistics Optimization Works (FLOW) Initiative

AGENCY: Bureau of Transportation Statistics (BTS), Department of Transportation (DOT).

ACTION: Notice of information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, BTS announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. BTS is also requesting an emergency approval for the pilot effort to develop a proof of concept for this collection as described below. BTS is requesting OMB approval for the emergency aspect of the collection within 7 days.

DATES: Comments regarding the pilot effort of this collection should be submitted within 5 days. All other comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: Comments regarding the pilot effort of this collection should be submitted directly to the Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street NW, Washington, DC 20503, Attention: BTS Desk Officer, by email at *Michael.J.McManus@omb.eop.gov.* All

other comments may be submitted using any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''FAQ'' section of the Federal eRulemaking Portal website.

• *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov,* and follow the online instructions for accessing the docket, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, USDOT, RTS–35, E36–302, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, by email at *demetra.collia@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Freight Logistics Optimization Works (FLOW) Project.

OMB Control Number: Not yet known.

Type of Request: New collection.

Estimated Time per Response: 26.5 hours.

Expiration Date: Not yet known.

Affected Public: Businesses in the freight industry.

Estimated Number of Respondents: 21 for pilot effort and up to 200 during the first three years of the program.

Estimated Total Annual Burden: 556.5 hours for pilot effort and 5,300 thereafter.

Abstract: Over the past several years, the U.S. supply chain has struggled with unprecedented congestion under COVID-induced surges of containerized cargo through our ports and intermodal networks. In March of this year, the White House announced the launch of the Freight Logistics Optimization Works (FLOW) initiative with the Department of Transportation and the freight industry to facilitate a collaboration and sharing of intermodal trade data. This collaboration would help improve supply chain efficiencies and reduce overall costs to U.S. consumers. The FLOW initiative builds on previous work by the Administration's Supply Chain Disruptions Task Force to ensure the expeditious movement of cargo from ship to shelf.

FLOW is a joint endeavor between the United States Department of Transportation (USDOT) and the freight industry aimed at improving key freight information exchange between parts of the goods movement supply chain. Data collected and exchanged will support industry collaborative demand management (CDM) decision making associated with the daily management of cargo and assets. Companies participating in FLOW will voluntarily submit relevant data; there is no regulatory requirement to submit such data.

Industry partners involved with FLOW, referred to as FLOW participants, include beneficial cargo owners (BCOs), ocean carriers, non-vessel operating common carriers (NVOs), ports and terminals, motor carriers, railroads, intermodal equipment providers (IEPs), and warehousers. It is expected that the practice of sharing operational information between FLOW participants will be a source of significant benefit to the operation of the national logistics system, *i.e.,* the complex collection of personnel, transportation assets, vessels, trucks, railcars, equipment, and any and all other freight components that comprise the United States' supply chain system.

The first phase of the FLOW initiative is a pilot effort to develop a proof-of-concept information exchange and operationalize it to support industry decision-making. During the pilot phase, the initiative will focus on the flow of goods to and from a limited number of terminals (*e.g.,* ports) and involve 21 participating companies. Following completion of the pilot, the program is expected to grow to include additional terminals and companies.

Data collected under this initiative is necessary to support the Administration's directive to identify and operationalize an information exchange to support a more resilient and fluid supply chain. Data will be submitted by participating companies via a secure online portal. Data submitted will include purchase order forecasts, cargo bookings, vessels in-transit, marine terminal space availability, drayage truck dispatch capacity, over-the-road truck dispatch capacity, chassis availability, and warehouse capacity. These data will be used to create an index of demand over capacity that is expected to act as a leading indicator of freight congestion and supply chain performance. The index, which will help communicate the degree of oversupply or undersupply of logistics assets, is intended to support a data driven approach to balance U.S. cargo traffic demand with system capacity.

Data Confidentiality Provisions: Data collected under the FLOW initiative may contain confidential business information. The confidentiality of these data will be protected under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018 (Title III of the Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. 115–435, codified in 44 U.S.C. ch. 35). In accordance with CIPSEA, FLOW data will be used exclusively for statistical purposes and will not be disclosed in identifiable form except with the informed consent of the respondent.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of BTS's functions; (2) the accuracy of the estimated burden; (3) ways for BTS to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

Demetra V. Collia,

Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2022–15247 Filed 7–15–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation: 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 Veterans' Advisory Committee on Rehabilitation (hereinafter the Committee) will be held virtually on Wednesday and Thursday, August 3–4, 2022 from 11 a.m. to 3:30 p.m. EST. The meeting sessions are open to the public.

The purpose of the Committee is to provide advice to the Secretary of VA on the rehabilitation needs of Veterans with disabilities and on the administration of VA's Veteran rehabilitation programs. The Committee members will receive information on how VA assists Service members with transitioning to the civilian work force to include awareness of VA benefits, outreach efforts, and supported employment programs. In addition, the Committee will discuss and explore potential recommendations to be included in the next annual report.

Although no time will be allocated for receiving oral presentations from the public, members of the public may submit written statements for review by the Committee to David Smith, Designated Federal Officer, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, or at *VACOR.VBACO@va.gov.* In the communication, writers must identify themselves and state the organization, association, or persons they represent.

For any members of the public who wish to attend virtually, please use the Microsoft Teams Meeting link: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGQ5NDZiMDItZWRhNy00MzIyLWE4MTEtOWI5ODc4MWI2YTE3%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%228252bbc1-b123-48c8-aa1c-6f43c7d548c7%22%7d.*

Or call in (audio only) Tel: + 1872–701–0185, United States, Chicago.

Phone Conference ID: 845052697#.

Dated: July 13, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–15285 Filed 7–15–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 87 Monday,
No. 136 July 18, 2022

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 922

Proposed Rule for the Florida Keys National Marine Sanctuary Management Review: Blueprint for Restoration; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 220516–0115]

RIN 0648–BJ14

Proposed Rule for the Florida Keys National Marine Sanctuary Management Review: Blueprint for Restoration

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

ACTION: Proposed rule; request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing several changes to the Florida Keys National Marine Sanctuary (FKNMS) to expand the boundary of the sanctuary, update sanctuary-wide regulations, update the individual marine zones and their associated regulations, and revise the sanctuary's terms of designation. In addition, a revised draft management plan is included in the supporting material for this proposed rule. FKNMS currently protects 3,800 square miles of waters surrounding the Florida Keys, from south of Miami westward to the Dry Tortugas. Within the boundaries of the sanctuary lie spectacular, unique, and nationally significant marine resources including North America's only coral barrier reef, extensive seagrass beds, mangrove-fringed islands, and more than 6,000 species of marine life. The sanctuary also protects pieces of our Nation's history such as shipwrecks and other archeological resources. This proposed rule follows NOAA's publication of a draft environmental impact statement (DEIS) in August 2019, also referred to as the Restoration Blueprint, which included a range of alternatives. The proposed rule is necessary to improve the condition of resources in the Florida Keys through a series of regulatory measures designed to reduce threats and, where appropriate, restore coral reefs, seagrasses, and other important habitats. The intended effect of this proposed rule is to protect and preserve the living and heritage resources of the Florida Keys for the benefit of the public. NOAA is soliciting public comment on this proposed rule.

DATES:

Comments due: October 26, 2022.

Public Comment Meetings: NOAA will host four public comment meetings during the public comment period, one virtual and three in-person.

The virtual public comment meeting will occur at the following date and time:

- Tuesday, August 30, 2022, *Time:* 6 p.m.–9 p.m.

The in-person public meetings will occur at the following dates and times:

- Key Largo, FL; *Date:* September 20, 2022; *Location:* Key Largo Coral Shores High School Auditorium; *Address:* 89901 Old Hwy., Tavernier, FL 33070; *Time:* 6 p.m.–9 p.m.
- Marathon, FL; *Date:* September 21, 2022; *Location:* Marathon High School Auditorium; *Address:* 350 Sombrero Beach Rd., Marathon, FL 33050; *Time:* 6 p.m.–9 p.m.
- Key West, FL; *Date:* September 22, 2022; *Location:* Key West High School Auditorium; *Address:* 2100 Flagler Ave., Key West, FL 33040; *Time:* 6 p.m.–9 p.m.

Please check *https://floridakeys.noaa.gov/blueprint* for meeting links and the most up-to-date information, should plans for these public meetings change. NOAA may end a virtual or in-person meeting before the time noted above if all participants have concluded their oral comments.

ADDRESSES: You may submit comments on this document, identified by NOAA–NOS–2019–0094, by the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and search for docket NOAA–NOS–2019–0094, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Written comments may also be mailed to:* Sarah Fangman, Superintendent, FKNMS, 33 East Quay Rd., Key West, FL 33040.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifiable information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the proposed rule, the DEIS, maps of the proposed management zones, and additional background materials can be found on the FKNMS website at *https://floridakeys.noaa.gov.* The notice of proposed rulemaking can also be downloaded or viewed on the internet at *www.regulations.gov* (search for docket # NOAA–NOS–2019–0094).

FOR FURTHER INFORMATION CONTACT: Beth Dieveney, Policy Analyst, FKNMS, 33 East Quay Rd., Key West, FL, 33040, 305–797–6818 phone, or by email at *beth.dieveney@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

1. Florida Keys National Marine Sanctuary

Designated in 1990, FKNMS was the ninth national marine sanctuary to be established in a network that now comprises 15 sanctuaries and 2 marine national monuments. As one of the largest marine protected areas in the United States, the sanctuary currently protects approximately 3,800 square miles of coastal and ocean waters from the estuarine waters of South Florida along the Florida Keys archipelago to the Dry Tortugas, encompassing more than 1,700 islands. The ecosystems of FKNMS provide habitats for more than 6,000 species of fishes, invertebrates, and plants, in addition to uniquely expansive and diverse seagrass and coral reef communities.

The Florida Keys have more than 77,000 residents and up to 5.5 million annual visitors, and a local economy of nearly $5.0 billion. In 2018, tourism spending in Monroe County accounted for $2.4 billion, supporting 44 percent of jobs/employment in the county. Tourism activity and spending is heavily dependent on the maintenance of a healthy marine environment. Approximately 60 percent of the economy is tied directly to marine-related activities, including commercial and recreational fishing, boating, diving, wildlife viewing, and other various tourist-related activities. A declining marine environment puts the Florida Keys' economy and jobs at risk.

2. Need for the Proposed Rule

The statutory bases for NOAA's management of FKNMS are primarily the purposes and policies of the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 *et seq.*), and the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA, Public Law 101–605). The NMSA authorizes the Secretary of Commerce (Secretary) to, among other purposes and policies:

• ''Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities'' (16 U.S.C. 1431(b)(2));

• ''Maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes'' (16 U.S.C. 1431(b)(3));

• ''Facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities'' (16 U.S.C. 1431(b)(6));

• ''Develop and implement coordinated plans of the protection and management of these areas with appropriate Federal agencies, State and local governments . . . and other public and private interests concerned with the continuing health and resilience of these marine areas'' (16 U.S.C. 1431(b)(7));

• ''Create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques'' (16 U.S.C. 1431(b)(8)); and

• ''Evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this chapter.'' (16 U.S.C. 1434(e)).

Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA, Public Law 101–605), directs NOAA to protect and preserve living and other resources of the Florida Keys marine environment, provide education on and interpretation of sanctuary resources to the public, and manage human uses of the sanctuary consistent with the FKNMSPA.

The need for this proposed rule is to respond to threats to marine resources of the Florida Keys, consistent with the purposes and policies of both the NMSA and the FKNMSPA. FKNMS is currently operating under the original regulations, including marine zones, that became effective in 1997, and a 2007 revised management plan, which directs the sanctuary's non-regulatory management activities. In order to ensure long-term resource viability and ecosystem function, this management framework needs to be updated to address current and foreseeable future threats. Generally, the marine resources within the sanctuary face increased risk from local, regional, and global threats; and changes in visitor numbers, use patterns, types, and shifting recreational interests. Specifically, these threats include diminished water quality originating from both within and outside the sanctuary, significant decrease in coral cover, and habitat degradation from vessel impacts including anchor damage, propeller-scarring, and groundings. Each of these threats has major implications for FKNMS.

In addition, updates are needed to the management regime in order to respond to the *2011 FKNMS Condition Report,*[1] which concluded that resources in the Florida Keys appear to be in fair to fair/poor condition, and are generally either stable or in decline. Since the release of the 2011 condition report, sanctuary resources have been further degraded by Hurricane Irma (2017), a serious and widespread coral disease outbreak, and a seagrass die-off, among other threats.

Furthermore, during scoping for the 2019 DEIS, the public emphasized the need for a more ecosystem-based management approach to better protect the region's marine resources. To that end, there was strong support for sanctuary expansion and updated marine zones—actions that are consistent with the purposes and policies of the NMSA and the FKNMSPA. More specifically, the need for this proposed rule is to extend national marine sanctuary protections to areas that have significant marine resources with demonstrated biological and ecological connectivity to existing sanctuary resources and to adapt management strategies to changing conditions, use patterns, and emerging threats to resources. FKNMS' efforts to update the sanctuary's regulations and management plan are informed by recent scientific findings of degraded habitat in the sanctuary and how the condition of resources can improve with application of long-term management and conservation strategies, which include marine zoning.

At the same time, as articulated in the revised draft management plan, continued research, restoration, and education is needed to conserve and restore these nationally significant sanctuary resources. This work is critical for assessing changes occurring in the environment, fostering a stewardship ethic, and developing a better understanding of the ecosystem services that sanctuary resources provide for communities throughout the Florida Keys.

In a parallel process, ONMS has been working to update the sanctuary regulations found at 15 CFR part 922. Part 922 includes general regulations applicable to all sanctuaries (subparts A through E) and site-specific regulations that relate to each individual sanctuary (subparts F through T). An interim final rule that was published at *87 FR 29606* [2] on May 13, 2022 updates and reorganizes the existing regulations, eliminates redundancies across the sanctuary regulations, eliminates outmoded regulations, adopts standard boundary descriptions, and consolidates general regulations and permitting procedures. All regulatory references to 15 CFR part 922 in this proposed rule are to be read as they will be amended by the interim final rule.

3. Incorporation by Reference

The definitions in § 922.162 for ''marine life species'' and ''tropical fish'' incorporate by reference the same definitions under State of Florida regulations for Marine Life found at Florida Administrative Code 68B–42.001 and 68B–42.002. Specifically, under these Florida regulations, the definitions of ''marine life species'' and ''tropical fish'' incorporate lists of species designated as ''restricted species'' found at 68B–42.002. Under Florida regulations, a fishing permit is required to target any species that fall under the definition of ''marine life species'' and ''tropical fish.'' Similarly, sanctuary regulations at § 922.163(a)(12) require that marine life species only be harvested from the sanctuary if authorized by a state permit or exemption. Sanctuary regulations at § 922.164(b)(2) also prohibit the collection of tropical fish from within two areas of the sanctuary that were formerly the Key Largo and Looe Key national marine sanctuaries. Florida regulations are readily accessible at *https://www.flrules.org/.* These Florida regulations are currently referenced in the existing sanctuary regulations; at this time NOAA is updating the language in order to comply with Office of Federal Register regulations for incorporation by reference found at 1 CFR part 51.

The definition of ''traditional fishing'' in § 922.162 incorporates by reference pages 84 through 91 of the 1996 Florida Keys National Marine Sanctuary Final Management Plan/Environment Impact Statement (1996 FL Keys NMS FMP/EIS (Vol. II)). This document was prepared

[1] *https://sanctuaries.noaa.gov/science/condition/fknms/welcome.html.*

[2] *https://www.govinfo.gov/content/pkg/FR-2022-05-13/pdf/2022-09626.pdf.*

by NOAA to accompany the promulgation of the initial regulations for the newly designated Florida Keys National Marine Sanctuary. The document provides a detailed description of the commercial and recreational fishing activities that historically and presently (as of 1996) were conducted in the Florida Keys region, including targeted species, locations where and seasons when fishing occurred or occurs, and types of gears used to harvest those species. Exemptions from several sanctuary prohibitions for traditional fishing are found in § 922.163(a)(3) (prohibition on altering the seafloor), § 922.163(a)(4) (prohibition on discharges), and § 922.163(a)(14) (prohibition on fish feeding). For more discussion on NOAA's proposed update to the definition of ''traditional fishing'' to incorporate by reference the 1996 FL Keys NMS FMP/EIS (Vol. II), please see part III, section 2. *Sanctuary-wide Regulations,* paragraph e Fish Feeding. The 1996 FL Keys NMS FMP/EIS (Vol. II) is readily available at *https://floridakeys.noaa.gov/mgmtplans/.*

II. FKNMS 2019 DEIS—The Restoration Blueprint Process

1. Notice of Intent & Scoping

On April 19, 2012, NOAA and the U.S. Department of the Interior's (DOI) U.S. Fish and Wildlife Service (USFWS) published a notice of intent in the **Federal Register**. The notice informed the public of the proposal to develop a Draft Environmental Impact Statement (DEIS), announced five public scoping meetings, and solicited public comment. ONMS and USFWS held public scoping meetings throughout the Florida Keys, in Ft. Myers and Miami and accepted written comments from April 19, 2012, to June 29, 2012. The website provides a scoping comments summary document [3] and original comments can be found at the regulations.gov docket for this notice of intent: *NOAA–NOS–2012–0061.*

In addition, as part of formal scoping, the FKNMS Sanctuary Advisory Council played a significant role throughout this review and the alternatives development process. Informed by their *2012 Regulatory and Marine Zone Alternatives Development Work Plan* [4] and input from four community working groups,[5] the Sanctuary Advisory Council provided over 200 recommendations for the sanctuary superintendent as well as the USFWS Florida Keys National Wildlife Refuges Complex manager to consider when developing alternatives related to regulations and marine zones within the sanctuary. The website *https://floridakeys.noaa.gov/review/workgroups.html* provides more information and summary documents of the Sanctuary Advisory Council and working groups.

2. Draft Environmental Impact Statement (DEIS)

Following the NOI and scoping, in accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) and the NMSA (16 U.S.C. 1434), NOAA prepared and released a DEIS and updated draft management plan on August 20, 2019 (84 FR 45728, September 3, 2019). The DEIS, also referred to as the Florida Keys National Marine Sanctuary Restoration Blueprint, evaluated the environmental consequences of four specific alternatives (see Table 1) and provided an in-depth resource assessment. The alternatives in the DEIS considered sanctuary boundary expansion to protect ecologically connected habitats, proposed new or modified sanctuary-wide regulations, proposed to establish new and modify existing marine zones to protect additional sensitive and threatened coral reef, seagrass, hardbottom habitats and species dependent on these habitats, and included an updated draft management plan. The DEIS alternatives aim to address threats and protect sanctuary resources by separating conflicting uses and managing high intensity and concentrated use activities while still allowing sustainable uses compatible with FKNMS natural resource protection goals.

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[3] *https://nmsfloridakeys.blob.core.windows.net/floridakeys-prod/media/archive/review/documents/scopingcommentssummary.pdf.*

[4] *https://nmsfloridakeys.blob.core.windows.net/floridakeys-prod/media/archive/sac/othermaterials/121211draftworkplan.pdf.*

[5] These working groups included 35 additional community member participants, many of whom represented local, small Florida Keys businesses. For details see: *https://floridakeys.noaa.gov/review/workgroups.html.*

Table 1: DEIS Comparison of Alternatives

Components	Alternatives			
	Alternative 1 (no action)	**Alternative 2**	**Alternative 3 (preferred)**	**Alternative 4**
Sanctuary boundary	Alt. 1 (no action) 3,800 sq miles	Existing boundary ATBA[1] Tortugas Region 4,541 sq miles	Existing boundary ATBA Tortugas Region 4,541 sq miles	Existing boundary ATBA Tortugas Region Pulley Ridge 4,800 sq miles
Sanctuary-wide regulations	Alt. 1 (no action)	Update 3 existing Propose 4 new	Update 4 existing Propose 4 new	Update 5 existing Propose 4 new
Marine zone boundaries[2]	Alt. 1 (no action) 57 total zones 1033 sq miles	96 total zones 1129 sq miles	98 total zones 1141 sq miles	98 total zones 1433 sq miles[3]
Additional marine zone regulations	Alt. 1 (no action)	Eliminate 2 exceptions Update 2 existing Apply more protective regulations than Alternative 1	Same as Alt. 2 or more protective (e.g., greater number of no entry areas)	Same as Alt. 2 or 3, or more protective (e.g., greater number of transits only areas)
Management plan	Alt. 1 (no action)	New proposed management plan	Same as Alternative 2	Same as Alternative 2

1. ATBA: The Area to Be Avoided are areas within the sanctuary, originally proposed by the USCG (55 FR 19418, May 9, 1990) and codified through the FKNMSPA, where operating any tank vessel or vessel over 50 meters length is prohibited.

2. Marine zone numbers and area calculations include Great White Heron and Key West National Wildlife Refuges.

3. The area estimate includes the boundary expansion at Pulley Ridge due to the application of a proposed no anchor regulation.

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All alternatives were consistent with NOAA's mission to conserve and manage coastal and marine ecosystems and resources, would further the

FKNMS mission to ''protect the marine resources of the Florida Keys while facilitating human uses that are consistent with the primary objective of sanctuary resource protection,'' would provide for more comprehensive management and protection of important and vulnerable ecological and cultural resources in the Florida Keys, and would provide important opportunities for research and recovery of resources from observed impacts. No significant adverse impacts to the human environment were identified under any alternative considered in the DEIS.

Due to broad public interest and the comprehensive nature of the review of FKNMS regulations and management plan, NOAA separated the DEIS and rulemaking processes to allow increased opportunity for public and agency input to inform this proposed rule. This proposed rulemaking combines individual aspects of each of the four alternatives presented in the DEIS and is directly informed by the thousands of public and agency comments received on the DEIS (see further discussion in part II, section 3. *Comments Received on the DEIS; Agency Consultations and Other Coordination* and part III. *NOAA's Proposed Rule and How it was Informed by Public and Agency Comment* of this document).

3. Comments Received on the DEIS; Agency Consultations and Other Coordination

This section provides a high-level summary of public and agency coordination conducted and comments received on the 2019 DEIS. These comments formed the foundation for many of the changes NOAA considered and made between the 2019 DEIS Alternatives and this proposed rule.

a. Public Comments

NOAA accepted public comments on the DEIS from August 2019 to January 2020 through *regulations.gov* for Docket NOAA–NOS–2019–0094 [6] by mail, and in person during six public hearings and two Sanctuary Advisory Council meetings in Key West, FL; Marathon FL; Key Largo/Islamorada, FL; Coral Gables, FL; and Ft. Myers, FL. Public comments are available for review at *www.regulations.gov* docket # NOAA–NOS–2019–0094.

NOAA received 1,213 separate comments during the public comment period, and several letter campaigns and petitions each with multiple signatories for a total of well over 35,000 comments. The types of organizations that commented include the following: state and federal agencies, local municipalities, homeowners' associations, fishing organizations, diving organizations, non-governmental organizations, trade organizations, scientists, permit holders, and school groups.

The public comments are generally summarized below, and, where relevant to this proposed rulemaking are included in the specific sections below. A comprehensive summary of public comments along with responses to comments will be included in the final environmental impact statement (FEIS), which FKNMS anticipates will be published in 2022 following public review and comment on this proposed rule.

In general, public comments on the 2019 DEIS ranged from supporting no action or the status quo (Alternative 1) to supporting more protective actions than those proposed in Alternative 4. Many comments supported elements of Alternatives 3 or 4 at a minimum to adequately protect the Florida Keys ecosystem. Comments supportive of the alternatives in the 2019 DEIS referred to increasing threats to resources and a need to increase the size and associated regulations of marine zones. Comments in opposition to the alternatives in the 2019 DEIS primarily spoke against additional marine zones and other regulations that could potentially restrict user access. Many commenters cited a need to address large regional threats, including water quality, education, and enforcement.

b. FKNMS Advisory Council DEIS Review

The FKNMS Sanctuary Advisory Council hosted two meetings (October and December 2019) to hear public comment on the DEIS alternatives. From February through April 2020 the Sanctuary Advisory Council deliberated to prioritize issues and provide NOAA with recommendations.

The range of Sanctuary Advisory Council input is well represented in the range of general public comments received as outlined above and in part III. *NOAA's Proposed Rule and How it was Informed by Public and Agency Comment,* below, so is not further detailed here.

c. Agency Consultations and Other Coordination

i. U.S. Fish & Wildlife Service Consultation

NOAA and USFWS jointly published a **Federal Register** notice of intent on April 19, 2012, to notify the public of the agencies' intent to prepare a DEIS and to initiate the scoping process. USFWS participated in the public scoping events and relevant community working groups (Shallow Water Wildlife and Habitat Protection) and provided subject matter expertise throughout development of the DEIS and this proposed rule. In addition, NOAA initiated Endangered Species Act consultation with USFWS Ecological Services in August 2019 and received comment on June 22, 2020. USFWS Ecological Services concurred with NOAA's determinations for potential effects to protected species and noted that coordination with the Florida Keys National Wildlife Refuges would be ongoing in the development of this proposed rule.

USFWS, through the Florida Keys National Wildlife Refuge Complex, provided comments on all proposed Wildlife Management Areas that fall within their National Wildlife Refuge boundaries. Highlights of USFWS comments specific to regulatory and marine zone proposals, including guiding principles that informed their comments, are included in the relevant sections below.

ii. DOI Bureau of Ocean Energy Management (BOEM) Consultation

DOI's Bureau of Energy Management (BOEM) considered potential impacts to offshore wind and determined there would be no effect from NOAA's proposed sanctuary expansion in the Florida Keys. BOEM further reviewed potential offshore oil and gas resources and due to uncertainty provided a low, mid, and high potential impact determination. BOEM determined effects to recoverable methane hydrates would be zero. BOEM identified an expired Outer Continental Shelf Marine Minerals lease less than 200 yards from the northern edge of the proposed sanctuary boundary expansion area that overlaps with the Atlantic Sand Aliquots, a potential sand resource site for beach renourishment projects. FKNMS has since confirmed with the U.S. Army Corps of Engineers and Florida Department of Environmental Protection that the area has not been used as a sand borrow site since 2012.

iii. Regional Fishery Management Council Consultation: Gulf of Mexico and South Atlantic

Pursuant to NMSA Section 304(a)(5), ONMS sent letters on August 22, 2019, to initiate consultation with the Gulf of Mexico Fishery Management Council (GMFMC) and the South Atlantic Fishery Management Council (SAFMC).

[6] *https://www.regulations.gov/document/NOAA-NOS-2019-0094-0001/comment.*

NOAA also provided multiple updates at the respective Council meetings and various advisory and technical committees over the course of the development of the DEIS and throughout the public comment period following its release.

GMFMC submitted a comment letter dated February 21, 2020, and, in general, noted the need for additional information to facilitate stakeholder understanding of the proposals and engagement in the process and acknowledged the importance of water quality and impacts to coral and other important fish habitats.

SAFMC submitted a comment letter dated March 13, 2020 and, in general, noted concern about water quality degradation and its effects on the fisheries and coral reefs and the need for additional law enforcement.

Where relevant, highlights of GMFMC and SAFMC comments specific to regulatory and marine zone proposals are included in the sections below.

iv. U.S. Department of Defense Coordination

The Department of the Navy provided a summary of their operational environment and activities at Naval Air Station (NAS) Key West during development of the 2019 DEIS (see Appendix F of the DEIS). The Department of the Navy submitted a comment letter on March 2, 2020 and has continued to provide additional information and clarification on Navy activities in and adjacent to the sanctuary throughout the development of this proposed rule. Navy comments included additional information about existing operations in and adjacent to the sanctuary and comments on specific zone proposals in the 2019 DEIS that may impact naval operations are included in relevant sections below.

v. State of Florida Coordination

NOAA has worked closely with several Florida state agencies throughout the public scoping process, and development of the DEIS and this proposed rule. As 60 percent of the sanctuary is within Florida State waters, the sanctuary is cooperatively managed with the State of Florida, with the Department of Environmental Protection (DEP) and Florida Fish and Wildlife Conservation Commission (FWC) as lead agencies. The Florida Department of State through the State Historic Preservation Office (SHPO) is also a key resource management partner for sanctuary historical resources. NOAA coordinates with other state agencies as needed on topic-specific issues. Several co-trustee agreements outline a framework for this cooperative management relationship. These agreements are currently under review and any revised and/or new co-trustee agreements will be included in the FEIS.

Florida Department of Environmental Protection

Florida DEP staff has coordinated directly with sanctuary staff, was represented by a Florida State Parks staff member at most Sanctuary Advisory Council community working group meetings where they provided management perspective and resource status and use data, and has an official non-voting seat on the Sanctuary Advisory Council. DEP submitted a comment letter to NOAA on the 2019 DEIS on May 1, 2020. Generally, DEP comments acknowledged the valuable partnership with the sanctuary and the role DEP's Division of State Lands plays with regards to managing State sovereign submerged lands. DEP also commented that they believed the areas of greatest public concern are water quality, enforcement, habitat restoration, and education and outreach. Highlights of DEP comments specific to regulatory and marine zone proposals are included in the relevant sections below.

Florida Fish and Wildlife Conservation Commission

Florida FWC staff has coordinated directly with sanctuary staff, notably with Florida Fish and Wildlife Research Institute (FWRI) experts assigned to provide scientific and technical support for each of the Sanctuary Advisory Council community working groups. Florida FWC staff also served as a co-chair with FKNMS to facilitate one working group, and has an official non-voting seat on the Sanctuary Advisory Council. NOAA also provided multiple updates at FWC meetings over the course of the development of the 2019 DEIS and throughout the public comment period. In addition, FWRI research findings directly informed various regulatory and zoning aspects of this proposed rule.

FWC submitted a comment letter to NOAA on the 2019 DEIS on April 29, 2020. FWC articulated a suite of guiding principles that informed their comments. FWC further commented on several management plan issues including law enforcement, education, water quality, coral reef ecosystem and recovery, carrying capacity, and artificial reefs. Highlights of FWC's comments specific to regulatory and marine zone proposals are included in the relevant sections below.

Florida State Historic Preservation Office

The Florida State Historic Preservation Office (SHPO) and Florida Division of Historical Resources staff have coordinated with FKNMS staff to review and develop an updated draft *Programmatic Agreement under Section 106 of the National Historic Preservation Act regarding Florida Keys National Marine Sanctuary Operations, Management, and Permitting* (Programmatic Agreement), which was included in the DEIS (Appendix C) for public comment. In addition, the SHPO submitted a comment letter to NOAA on the 2019 DEIS on January 31, 2020 that noted the DEIS Preferred Alternative (Alternative 3) would sufficiently address the sanctuary's National Historic Preservation Act Section 106 (54 U.S.C. 306108) responsibilities through implementation of the new management plan and Section 106 Programmatic Agreement.

III. NOAA's Proposed Rule and How It Was Informed by Public and Agency Comment

The following sections summarize the proposed rule including a brief discussion of comments received on the 2019 DEIS and how they informed the proposed rule. In addition to comments received the proposed rule is also informed by additional agency input and scientific and user data.

These sections are organized in the same way they were presented in the 2019 DEIS/Restoration Blueprint:

1. sanctuary boundary;
2. sanctuary-wide regulations;
3. marine zone boundaries within the sanctuary; and
4. marine zone regulations.

A revised draft management plan is included as supporting material and is available at the address and website listed in the **ADDRESSES** section of this proposed rule.

1. Sanctuary Boundary

There are three principal areas where NOAA is proposing changes to the FKNMS boundary. First, NOAA seeks to align the FKNMS seaward boundary with the northernmost Area to Be Avoided (ATBA) seaward boundary, which by doing so will also encompass two areas of the existing ATBA that currently fall outside the sanctuary boundary (two small areas of the ATBA along the Key West shipping channel); second, to encompass the proposed modified Tortugas South Conservation Area (which is currently referred to as the Tortugas South Ecological Reserve); and third, to include a non-contiguous

area at Pulley Ridge. First, the boundary expansion to align with the ATBA would result in a consistent regulatory boundary, which is intended to provide clarity for mariners and additional ecosystem protections. The ATBA areas within the sanctuary were established through the FKNMSPA and prohibit operating any tank vessel or vessel over 50 meters length within specified areas to protect coral reef habitat from potential vessel impacts, including groundings. Second, the proposal for boundary expansion in the Tortugas region takes into account recently collected and compiled mapping coverage data and remotely operated vehicle imagery in the southern portion of the existing Tortugas South Ecological Reserve which show unique and sensitive habitat features in this area (for more details on this information see part III, section 3. *Marine Zone Boundaries within the Sanctuary,* below). And third, NOAA intends to create a non-contiguous sanctuary area that encompasses the southern portion of Pulley Ridge to protect the deepest known photosynthetic coral reef system off the coast of the continental United States. In addition to sanctuary-wide regulations, NOAA is proposing a no anchor regulation in Pulley Ridge that would apply to all vessels to reduce the risk of damage to this fragile coral marine environment (for more details see part III, section 3. *Marine Zone Boundaries within the Sanctuary,* below).

NOAA received many comments that supported the status quo (*i.e.,* no change to the overall sanctuary boundary). NOAA also received comments specific to the sanctuary boundary proposals. Of those, the majority were in support of providing additional protections in the Tortugas region and Pulley Ridge, and supported aligning the sanctuary boundary with the ATBA. One comment suggested that NOAA explore other ways to protect Pulley Ridge from anchors. In response, NOAA is considering pursuing International Maritime Organization adoption of a no anchoring area designation for Pulley Ridge, which may affect NOAA's decision about whether to include boundary expansion at Pulley Ridge in the final rule. Comments also specifically opposed boundary expansion at Pulley Ridge because this area is already protected as a GMFMC Habitat Area of Particular Concern (HAPC), and questioned the need for additional action and the ability to enforce regulations in this area. NOAA's proposal considers the HAPC designation. The HAPC is limited to fishing vessels and will not prevent anchoring and anchor damage by non-fishing vessels like the ones documented in GMFMC's letter. Specific to proposed sanctuary boundary expansion in Pulley Ridge, the FMCs and NMFS emphasized a need to consider the interests of fishermen who fish in Pulley Ridge but do not live in the Florida Keys and are therefore potentially unaware of the sanctuary and associated regulations and management goals. Throughout the scoping and 2019 DEIS public comment process, FKNMS made a concerted effort to provide notice and opportunity for engagement by these non-Florida Keys residents through hosting scoping meetings, informational sessions, and public comment meetings (*e.g.,* Ft. Myers, FL).

Agency comments, specifically from FWC, requested that the proposed boundary in the Tortugas region be shifted further north due to a lack of knowledge about resources in the southern portion of the existing Tortugas South Ecological Reserve (see part III, section 3. Marine Zone Boundaries within the Sanctuary for details as to why NOAA is not proposing this marine zone boundary change).

2. Sanctuary-Wide Regulations

This section describes regulations that would apply throughout the sanctuary (*i.e.,* sanctuary-wide). This section includes a discussion of how the proposed rule was informed by comments received on the sanctuary-wide regulatory alternatives proposed in the 2019 DEIS and additional relevant information, including discussing why some regulatory alternatives were not carried forward in these proposed regulations.

a. Live Rock Aquaculture

NOAA's proposed rule maintains the current exception for live rock aquaculture from sanctuary-wide regulatory prohibitions if authorized by a submerged lands lease issued by the Florida Department of Agricultural and Consumer Services or a National Marine Fisheries Service (NMFS) Aquacultured Live Rock permit, which is issued under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) authority in conjunction with the U.S. Army Corps of Engineers via the Programmatic General Permit SAJ–71. Additionally, NOAA proposes to develop a Memorandum of Agreement (MOA) with NMFS and Florida Department of Agricultural and Consumer Services related to live rock aquaculture in the sanctuary. This MOA would enhance inter-agency collaboration, clarify the process by which such proposals are reviewed, and ensure that requirements to protect sanctuary resources are included in live rock aquaculture permits. The proposal to develop the MOA is included in the revised draft management plan, which is included with this proposed rule as a supporting document.

The DEIS included a regulatory alternative that would have required live rock aquaculture operations to obtain a separate sanctuary permit, in addition to state or NMFS permits. However, public comments supported either (1) maintaining the status quo (*i.e.,* no change from current regulations), which provides an exception for permitted live rock aquaculture operations from sanctuary prohibitions, or (2) developing a MOA with NMFS and Florida Department of Agricultural and Consumer Services, which was the preferred alternative (Alternative 3) in the DEIS. After considering public comment, NOAA believes that a MOA will allow NOAA to ensure protection of sanctuary resources through inter-agency collaboration without requiring a separate sanctuary permit.

b. Discharge Regulation Exception

NOAA proposes to update the existing discharge regulation to explicitly prohibit discharge by cruise ships, and to simplify and clarify terminology by removing the exception for ''exhaust gas'' and ''water generated by routine vessel operations.'' Each of these are explained in more detail below.

NOAA has a long history of regulating various discharges under the NMSA to ensure that the discharges do not degrade water quality within the sanctuary. When the original FKNMS regulations were implemented in 1997, NOAA established prohibitions against discharging most items into the sanctuary, with exceptions for bait or chum, biodegradable effluent from approved marine sanitation devices, graywater and deck washdown during routine vessel operations, and vessel cooling water and engine exhaust. In sanctuary zones, such as Sanctuary Preservation Areas and Ecological Reserves, NOAA established more stringent regulations to only allow discharge of vessel cooling water and engine exhaust. The 1997 regulations also prohibited the discharge of material or other matter from outside the sanctuary that enters and injures a sanctuary resource. In 1999, the U.S. Environmental Protection Agency (EPA) established a No Discharge Zone under

the Clean Water Act (CWA) for vessel sewage in Key West, Florida, within State waters, in response to a petition from the State. The No Discharge Zone prohibited the discharge of untreated or treated vessel sewage, including from marine sanitation devices. Subsequently EPA expanded the No Discharge Zone to all State waters of the sanctuary (*67 FR 35735;*[7] May 21, 2002). In 2010, NOAA removed the exception for discharges from marine sanitation devices in the entire sanctuary under the NMSA, thereby making all sanctuary waters a no discharge zone under the NMSA (*75 FR 72655;*[8] Nov. 26, 2010). Comments on NOAA's rulemaking at that time also supported banning harmful vessel graywater discharges, especially from large cruise ships and cargo vessels. While NOAA did not ban graywater discharges in 2010, NOAA responded by noting that additional water quality regulations may be considered in future FKNMS management plan reviews.

Under its NMSA authorities, NOAA now proposes to further restrict discharges from cruise ships while in the sanctuary. Specifically, the proposed rule would prohibit discharges of any material or other matter from a cruise ship, except cooling water. This change would result in prohibiting the discharges of graywater and deck washdown from cruise ships, which are currently exempt from the prohibitions. Cruise ships are among the largest vessels traversing the sanctuary and the source of a considerable volume of discharges. Scientific literature discusses the adverse effects of various cruise ship discharges on the marine environment, including brine from desalination equipment, ballast water, and spa/pool water, among others. NOAA believes that it is feasible for cruise ships to successfully avoid discharging in sanctuary waters because cruise ship operations in sanctuary waters are extremely limited to entering and leaving the port of Key West. In addition, certain routine maintenance activities may occur while a cruise ship is in port within the sanctuary, including hull cleaning or scraping and application of antifouling paint, which may alter water quality. These activities may occur in other ports in less sensitive ecosystems outside of the sanctuary.

This proposed rule is informed by information received through coordination with the EPA, notably the agency's studies related to cruise ship discharges and vessel operations in other sensitive marine environments (classified as ''Waters Federally Protected wholly or in part for Conservation Purposes'' under the EPA Vessel General Permit). NOAA also considered information related to the successful management of cruise ship operations in certain National Parks, including Glacier Bay, Alaska where, through concession agreements, cruise ships operate with higher environmental standards when in park waters.

NOAA determined that the 2019 DEIS alternatives, which proposed instead to specify certain discharges that would be allowed by cruise ships (*e.g.,* ''clean wash water'') would be extremely difficult to define based on changing industry standards. The use of such terms could be interpreted differently among stakeholders, which could create compliance and enforcement challenges. Further, NOAA reasonably believes there may be new and emerging technologies and activities on cruise ships that may result in discharges into ocean waters, such as the increased use of exhaust gas scrubber systems, the impacts of which are not fully defined in the scientific literature. As such, instead of attempting to itemize every current and possible future discharge and assess whether it would be prohibited or not, NOAA is proposing to apply the precautionary principle by prohibiting all discharges from cruise ships, except for cooling water.

NOAA would continue to provide an exception to the discharge prohibition for cooling water from all vessels, including cruise ships, because it is currently technologically infeasible for cruise ships to operate without discharging cooling water. However, this exception does not apply if cooling water is mixed with other substances. In particular, cooling water that is mixed with any other substances, such as exhaust gas cleaning systems (EGCS) scrubber wash water, would be prohibited.

NOAA proposes to remove the exception for ''exhaust gas'' from its discharge prohibitions for all vessels to reduce confusion. NOAA believes the original intent of this exception was to allow the discharge of boat engine wet exhaust, rather than exhaust emissions, since NOAA does not regulate air emissions. The term ''cooling water'' encompasses ''boat engine wet exhaust,'' which is defined in the EPA Vessel General Permit (Section 2.2.21) as the ambient water that is injected into the exhaust for cooling and noise reduction purposes and then discharged, typical of marine outboard engine operation. NOAA does not believe ''boat engine wet exhaust'' or ''cooling water'' would include any other discharges including EGCS scrubber wash water.

NOAA also proposes to simplify the exception for discharges of ''water generated by routine vessel operations.'' The current regulatory exception for discharges of ''water generated by routine vessel operations (*e.g.,* deck wash down and graywater as defined in section 312 of the CWA), excluding oily wastes from bilge pumping,'' does not clearly explain what types of discharges are allowed. Specifically, the term ''water generated by routine vessel operations'' is not defined in FKNMS or other agency rules (compared with the terminology used by the Clean Water Act for ''discharges incidental to the normal operation of a vessel''), creating ambiguity as to what, if any, additional discharges are meant to be excepted from the regulatory prohibition besides deck washdown and graywater. Based on a review of the original regulations and management plan for the sanctuary, NOAA believes the intention of this exception was simply to allow discharges of cooling water (including boat engine wet exhaust), deck washdown, and graywater, and to explicitly prohibit the discharge of oily bilge wastes. At this time, NOAA is proposing to make technical corrections to the discharge exceptions to simplify this provision to clearly explain that cooling water, deck washdown, and graywater are allowable discharges from vessels other than cruise ships, but oily wastes from bilge pumping are not. NOAA continues to intend that the terms ''cooling water,'' ''deck washdown,'' ''graywater,'' and ''oily wastes from bilge pumping'' have the same meaning as these terms pursuant to section 312 of the CWA, but believes that inclusion of the citation to that statute in the regulatory text is unnecessary. Discharges of fish and fish parts when part of a traditional fishing activity are allowed under another exception to the discharge prohibitions and would not change.

Of note, on December 4, 2018, Congress passed the Vessel Incidental Discharge Act (VIDA) (Title IX of the Frank LoBiondo Coast Guard Authorization Act of 2018). VIDA requires the EPA to develop new national standards of performance for commercial vessel incidental discharges and the United States Coast Guard to develop corresponding implementing regulations. At the time of publication of this NMSA proposed rule for the

[7] *https://www.govinfo.gov/app/details/FR-2002-05-21/02-12283.*

[8] *https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/archive/management/fr/75_fr_72655.pdf.*

FKNMS, implementing regulations for VIDA have not yet been published. However, NOAA acknowledges that when those regulations are finalized, there may be additional discharge prohibitions placed on vessels operating in federally protected waters such as national marine sanctuaries. NOAA would review any VIDA implementing regulations to ensure they are consistent with the sanctuary's primary goal of resource protection and to determine whether conforming changes to the sanctuary regulations may be necessary and appropriate.

During the 2019 DEIS process, public comments strongly supported the need to take additional action related to sanctuary water quality; this included support for revising the existing discharge regulation exceptions to prohibit graywater discharges from cruise ships. Comments also requested clarification about specific discharges that may be allowed and required technological standards (*e.g.,* closed loop or hybrid exhaust gas cleaning systems). NOAA has intended to address this concern through simplifying the language and intent of the cruise ship discharge prohibition from the 2019 DEIS proposal to this proposed rule.

c. Temporary Regulation for Emergency and Adaptive Management

NOAA proposes updating the existing regulations to allow for rapid, temporary rulemaking to facilitate time-sensitive, adaptive management and respond to emergencies. First, the proposed rule would expand the time frame during which any temporary regulation could remain in place from 60 days to six months, with the option for one additional extension of six months (rather than the currently authorized additional 60 days). While NOAA's proposal is to extend the potential time frame that a temporary regulation could be in effect, NOAA would consider the specific circumstances and craft any temporary regulation for the appropriate duration, which may be less than the maximum time allowed under this proposed regulation. Second, this proposed rule outlines three categories for which NOAA would issue temporary regulations (as outlined below in this section). Third, this proposed rule would set out the procedure by which a temporary regulation would be promulgated. This includes the requirement that the agency provide a justification for the time sensitivity of the action to comply with the Administrative Procedure Act (5 U.S.C. 553(b)(B)). This procedure also (1) addresses notice and comment requirements, and (2) requires State approval for any temporary regulations proposed in State waters. NOAA intends to work with its state partners to clarify the process for actions in State waters in co-trustee management agreements.

NOAA proposes three categories for temporary regulation to protect sanctuary resources when time is of the essence. The first category would allow for temporary regulations to prevent or minimize destruction of, loss of, or injury to sanctuary resources from any human-made or natural circumstances, including a concentration of human use, change in migratory or habitat use patterns, vessel impacts, natural disaster or similar emergency, disease, or bleaching. Second, temporary regulations may be used to initiate restoration, recovery, or other activities where a delay would undermine the success of the activity. Lastly, NOAA may use temporary regulations to initiate research where an unforeseen event produces an opportunity for scientific research that may be lost if it is not initiated immediately.

Importantly, temporary regulations would only allow NOAA to shorten or bypass minimum public comment periods if NOAA makes a finding of ''good cause'' that such procedures are ''impracticable, unnecessary, or contrary to the public interest'' pursuant to Administrative Procedure Act (5 U.S.C. 553(b)(B)). This finding must be made before promulgating a temporary regulation without following the full rulemaking procedures, including public notice and comment. While NOAA must make this required finding before promulgating a temporary regulation under this proposal, NOAA believes that all three of the temporary regulation categories will satisfy this good cause requirement because each of these categories requires NOAA to take rapid, immediate actions in order to address an important and time-sensitive environmental need. However, when any given issue arises, NOAA will review it on a case by case basis to determine if application of this proposed rule is consistent with the Administrative Procedure Act. Where the agency determines that time is available without jeopardizing the effectiveness of the action, NOAA will follow notice and comment procedures, even for temporary actions.

Public comments included support for NOAA's authority to respond to emergencies and to allow NOAA to be more responsive to emerging issues that would benefit from immediate management action. NOAA believes this proposal provides a framework for such immediate actions where one did not previously exist. Comments also included concerns that the proposal to expand the time that a temporary regulation could be in place (from a maximum of 120 days to a maximum of one year) would subvert the public comment process required for rulemaking. NOAA is addressing this concern in this proposed rule by identifying categories for which temporary regulations may be promulgated for the public to provide comments, and has incorporated the existing requirements from the Administrative Procedure Act to demonstrate good cause. Some commenters recommended the sanctuary consider different time frames for sanctuary-wide versus marine zone emergencies. NOAA believes different maximum time frames would hamper NOAA's management flexibility. NOAA has established a maximum time frame (six months with one six-month extension), but NOAA would consider shorter time frames where appropriate to meet management needs. Comments also voiced concerns that ''emergency'' was not clearly defined. NOAA believes it would be clearer and more efficient to establish well-defined categories, criteria, and processes for temporary regulations to respond to time-sensitive needs to manage sanctuary resources, rather than attempt to define ''emergency.''

State agency, Gulf of Mexico Fishery Management Council, and South Atlantic Fishery Management Council comments noted concern about application of the emergency regulation to fishing and related businesses; however, the comments also supported aligning the time frame (up to one year) with regulations that provide for emergency actions in section 305(c) of the MSA. NOAA has chosen to increase the time frame to harmonize with the emergency time frames as outlined in section 305(c) of the MSA, as well as other national marine sanctuary regulations. State agency comments emphasized the need for Governor approval for all proposed temporary regulations in State waters and recommended that a process be developed and codified in co-trustee management agreements for FWC and the Governor to engage on temporary regulations in State waters prior to approval. NOAA proposes to maintain the requirements for Governor approval for temporary regulations in State waters and proposes to work with FWC to develop a streamlined co-trustee process.

While NOAA is proposing these regulations to allow greater

responsiveness to emerging issues and in response to public comment, in the history of the sanctuary FKNMS has only issued emergency regulations on three separate occasions. In 1997, the emergency regulation was used to prohibit anchoring of vessels 50 meters or greater in an area of Tortugas Bank, which was subsequently established through a full rulemaking process. In 2002, an area of approximately 0.58 acres was identified as an area to avoid for a period of 104 days at the M/V *Wellwood* grounding site. Finally, in 2003, two areas totaling 425 acres were closed for a period of 60 days to prevent additional injury to living coral in an area impacted by a rapidly spreading coral disease outbreak.

d. Historical Resources Permitting

NOAA proposes to update historical resource permitting by replacing the current survey/inventory, research/recovery, and deaccession/transfer permit categories with a new, single archaeological research permit category. The proposed rule would define the term ''archaeological research,'' explain criteria that must be met in order for NOAA to issue an archaeological research permit (including applicant qualifications), and prescribe certain conditions that would apply to these permits. This would align sanctuary historical resource permitting with state permitting regulations for archaeological research promulgated under Chapter 1A–32, Florida Administrative Code, and optimize compliance with the *Federal archeology program.*[9] The Federal archaeology program is a general term used to encompass archeological activities on public land, as well as archaeological activities for federally financed, permitted, or licensed activities on non-federal land. Its foundation is based upon historic preservation laws like the National Historic Preservation Act and Archaeological Resources Protection Act. Dozens of federal agencies, including NOAA, undertake archeological activities and contribute to the Federal archeology program. The Secretary of the Interior is charged with providing general guidance and coordination for all of Federal archeology.

The proposed archaeological research permit category would simplify permitting research focused on historical resources in the sanctuary, including the State waters portion of the sanctuary. While the current system requires separate NOAA and Florida Division of Historical Resources permits for archaeological research activities in State waters, the proposed archaeological research permit category combined with the process set forth in the draft *Programmatic Agreement under Section 106 of the National Historic Preservation Act regarding Florida Keys National Marine Sanctuary Operations, Management, and Permitting,* would create a single review process for most types of archaeological research in State waters. Research that results in adverse effects to historic properties would not qualify for this simplified permitting process. For example, adverse effects to historical resources may result from site excavation in which case the proposed activity would need to be separately permitted by the State and sanctuary.

The current permitting system is unnecessarily complicated and confusing to applicants as it artificially bisects the archaeological research process. Division of permits into either survey/inventory or research/recovery often resulted in insufficient research plans to meet project goals. The proposed archaeological research permit category would require that applicants commit to following an explicit statement of objectives and that project methods be chosen to gather the information required to meet the stated objectives.

The proposed archaeological research permit category would also require that an applicant be the project's supervising archaeologist whose qualifications meet the Secretary of the Interior's Professional Qualification Standards for archaeology. This aligns with the required credentials for investigators receiving a state archaeological research permit under Chapter 1A–32, Florida Administrative Code. Additionally, the proposed permit category would require that the supervising archaeologist be on site for any excavation and/or artifact recovery. As a result of these proposed changes, NOAA believes that the quality of the research, both proposed and conducted, will be improved. NOAA anticipates that the reporting of research results will also be of higher quality when directed by a professional archaeologist with the required field experience. For the above reasons, NOAA believes that the proposed archaeological research permit category with associated application and review criteria will increase the protection of historical resources throughout the sanctuary.

In addition to the above changes, NOAA proposes to eliminate the permit category allowing for the deaccession/transfer of historical resources. Eliminating the deaccession/transfer of historical sanctuary resources is consistent with Chapter 1A–31, Florida Administrative Code, which states that the State of Florida will not issue permits for exploration and recovery of historic shipwreck sites by commercial salvors or for transferring objects recovered by commercial salvors for areas of the Florida Keys National Marine Sanctuary. Eliminating the deaccession/transfer permit category is also consistent with the Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs and Standards for the Treatment of Historic Properties, which focus on the preservation and long-term curation of any recovered historical resources for the benefit of the public (as opposed to private ownership). Likewise, this approach is consistent with the Abandoned Shipwreck Act Guidelines, which recommend that, at a minimum, state-owned shipwrecks located within a national marine sanctuary or in other areas (like habitat areas or coralline formations) protected under Federal or State statute, order or regulation not be available for commercial salvage, treasure hunting or personal collecting. These Federal guidelines, and the statutes that underpin them, are part of the Federal archaeology program and align with NOAA's long-standing classification and protection of historical resources as sanctuary resources under the NMSA.

To date, no deaccession/transfer permit has ever been issued and, as such, the impact of this change will be minimal. NOAA intends to continue engaging directly with current sanctuary historical resource permit holders and entities with pre-existing, valid rights of access to clarify how updated historical resource permitting regulations would or would not affect potential future activities.

The DEIS (Appendix C) also included the draft *Programmatic Agreement under Section 106 of the National Historic Preservation Act regarding Florida Keys National Marine Sanctuary Operations, Management, and Permitting* (Programmatic Agreement), for public comment. Once finalized, this Programmatic Agreement will be a formal agreement between NOAA, the Florida SHPO, and the Advisory Council on Historic Preservation, and will specify procedures NOAA will follow to satisfy National Historic Preservation Act (NHPA) Section 106 obligations for sanctuary operations, management, and permitting. The draft Programmatic Agreement would provide for streamlined review of certain archaeological research permits,

[9] *https://www.nps.gov/archeology/sites/fedarch.htm.*

as well as certain sanctuary undertakings that would not adversely affect historic properties.

This proposal responds to public and agency comments that supported updating sanctuary historical resources permitting to align with the State of Florida regulations, creating a consistent approach to permitting historical resource investigations in both state and federal sanctuary waters of the sanctuary. NOAA determined that the benefit of updating the FKNMS historical resource permitting program outweighed public comment supporting the status quo.

NOAA received agency comments from the Florida SHPO that indicated that the proposed permitting update presented as DEIS Preferred Alternative (Alternative 3) would sufficiently address the sanctuary's National Historic Preservation Act Section 106 responsibilities in combination with the new management plan and draft Section 106 Programmatic Agreement. The SHPO also acknowledged that when finalized and executed, the Programmatic Agreement would reinforce the sanctuary's and state's shared stewardship responsibility for historical resources and would also ensure NOAA's consistent and streamlined adherence to National Historic Preservation Act Section 106 regulations. The SHPO noted that comments from other interested parties and the public should be addressed when finalizing the Programmatic Agreement language.

e. Fish Feeding

NOAA proposes to prohibit the feeding and attracting of fish, including sharks, or other marine species, from any vessel or while diving, and to define ''diving,'' and ''feeding.'' The term ''attracting'' is defined in National Marine Sanctuary System-wide regulations at 15 CFR 922.11.[10] The regulatory text in the proposed rule has been developed with additional input and expertise from NMFS staff related to impacts to sharks and shark depredation, human safety concerns, and compliance and enforcement. NOAA has not provided an express ''grandfather'' clause for current fish feeding operations (*i.e.,* an exemption for pre-existing operators), although NOAA received some comments requesting such a provision. Instead, NOAA would consider issuing general permits to pre-existing eco-tour operators who are able to satisfy all general permit application requirements. Any permits would contain specific terms and conditions to protect sanctuary resources. In order to assist NOAA in identifying appropriate terms and conditions for such permits, NOAA seeks comments on the numbers, scale, and types of activities related to feeding and attracting fish, including sharks, or other marine species that currently occur within the sanctuary.

NOAA carefully considered public comments regarding extending this prohibition to shore-based operations (*i.e.,* dock-side fish feeding); however, NOAA is not proposing to regulate shore-based activity at this time because additional information is needed about its scope, scale, and economic impact to develop appropriate regulations.

The proposed new fish feeding regulation would not affect the existing regulatory exception that allows discharge of fish, fish parts, chumming materials, or bait that is used or generated while conducting traditional fishing in the sanctuary.

NOAA proposes modifying the regulatory definition for traditional fishing to clarify that the 1996 FEIS and management plan describe what activities are considered ''traditional fishing.'' In addition, in response to agency and FMC comments and in recognition of decades of fishery management by state and federal partners that promotes gear innovations to reduce bycatch and other unintended effects of fishing, ONMS plans to work with NMFS, FWC, and the Gulf of Mexico and South Atlantic FMCs on an updated Protocol for Cooperative Fisheries Management. The updated Protocol would further clarify what traditional fishing activities consist of and develop a transparent process by which allowing new or modified fishing activities, such as those that reduce impacts to sanctuary resources, and other relevant changes to fisheries management, can be evaluated for potential future rulemaking.

Public comments generally supported additional prohibitions on fish feeding in the sanctuary. Other comments opposed additional regulation because of the potential loss of eco-tour and educational opportunities and questioned the impacts of fish feeding on the environment, human safety, and fish and shark behavior. In preparing this rule, NOAA has carefully considered available literature on the effects of fish feeding, which include potentially harmful impacts on fish behavior, including shark behavior, and believes that the regulation is necessary. But, as stated above, NOAA would consider issuing permits to pre-existing eco-tour operators in order to minimize the economic impacts of this provision. Agency comments indicated support for regulating fish feeding and, specifically, FWC noted it would consider modifying its existing fish feeding regulation in State waters to be consistent with a sanctuary regulation.

f. Grounded and Deserted Vessels, and Harmful Matter

NOAA proposes including new regulations prohibiting anchoring, mooring, or occupying a vessel at risk of becoming derelict, or deserting a vessel aground, at anchor, or adrift in the sanctuary. The proposed rule would also prohibit leaving harmful matter aboard a grounded or deserted vessel, and would define ''at risk of becoming derelict'' and ''deserting.'' The term ''harmful matter'' is defined in National Marine Sanctuary System-wide regulations at 15 CFR 922.11. These proposed regulations and associated definitions align with existing state regulations that outline conditions for at-risk vessels, and include specific timeframes for giving notice that a vessel has gone aground and for submitting a salvage plan to FKNMS. In addition, these notification requirements would apply anytime a vessel operator strikes the seabed regardless of whether or not sanctuary resources are injured.

NOAA and Florida DEP have an existing Co-Trustee Agreement for Civil Claims that would be updated to reflect these new regulations and processes, and to facilitate coordination and response to grounded and deserted vessels in State waters.

Finally, the revised draft management plan includes additional details for how NOAA would engage with towing and salvage operators to develop best management practices and a permitting process for removing grounded and deserted vessels.

Public comments were generally supportive of NOAA developing new regulations to address grounded and deserted vessels; however, many commenters noted that NOAA should ensure that definitions and application of any proposed regulations are consistent with state regulations and enforcement authorities, particularly related to the term ''at risk vessel.'' NOAA agrees and the proposed regulations are consistent with state regulations. Commenters also noted that enforcement of a new regulation could prove challenging given the number of deserted vessels in the sanctuary and broad geographic area where they are

[10] As discussed above, this rule modifies the regulations in 15 CFR part 922 that will be amended by an interim final rule published at 87 FR 29606 (May 13, 2022). All regulatory references to 15 CFR part 922 in this proposed rule are to be read as they will be amended by the interim final rule.

found. NOAA would collaborate with the State, county, and other partners due to the challenging scope of this issue.

State agency comments were supportive of regulating grounded and deserted vessels, in part, if it builds upon existing state regulations including Florida's Coral Reef Protection Act and relevant FWC boating regulations.

g. Large Vessels and Overnight Use of Mooring Buoys

NOAA proposes to include a new regulation that requires large vessels to use designated large vessel mooring buoys and small vessels to use regular mooring buoys. An associated new definition for ''large vessel'' would also be added. Additional information about sanctuary mooring buoy management, including plans to engage user groups to help identify areas of use, numbers of users, and placement of mooring buoys, is included in the revised draft management plan.

Public and agency comments generally supported delineating large and small vessel mooring buoys and using the availability of such buoys to limit access to sensitive areas that have been damaged by overcrowding and intensive use. Commenters also recommended boater education courses to increase boater knowledge regarding proper use of and regulations associated with mooring buoys. The sanctuary currently has a voluntary boater education course and participates in and provides sanctuary specific content for boater training courses hosted by the U.S. Coast Guard Auxiliary and others.

Public and agency comments were generally not supportive of prohibiting overnight use of mooring buoys largely due to issues of public safety, public access, and enforcement. Some public comments, however, highlighted concern for new and increasing practice of anchored and moored vessels being used for overnight accommodation (*e.g.,* vacation rental by owner) and possible impacts from such use, including prohibited discharges. DEP comments also suggested limiting visitors to a maximum 14-day stay to prevent long-term use of moorings, which would be consistent with Florida State Parks rules. While the proposed rule does not include a regulation prohibiting overnight use of mooring buoys at this time, NOAA may reconsider this proposal in the future if conditions warrant.

h. Military Exemption

NOAA proposes revising the existing military exemption regulation in two ways. First, NOAA would update the list of exempted military activities from the list found in the 1996 Final Environmental Impact Statement and Management Plan (FEIS) for the sanctuary to the forthcoming Final Environmental Impact Statement and Management Plan for the sanctuary. Second, NOAA would clarify the process for new military activities to be exempted from sanctuary prohibitions. Each proposed change is described below.

Current FKNMS regulations reference military activities in the sanctuary and, for certain activities, provide an exemption from sanctuary prohibitions. The current exemptions for Department of Defense (DOD) activities in the sanctuary reference existing classes of military activities which were conducted prior to the effective date of these regulations, as identified in the Environmental Impact Statement and Management Plan for the Sanctuary. This language refers to the description of military activities contained in the 1996 FKNMS FEIS (Volume II, pages 93–96). NOAA proposes updating this exemption to include military activities currently conducted within the sanctuary that NOAA has determined are appropriate for exemption because the activities are not likely to injure sanctuary resources or will be carried out in a manner that avoids to the maximum extent practical any adverse impact on sanctuary resources and qualities. An updated list that reflects current DOD activities conducted in the sanctuary that NOAA considers to be exempt is provided in the revised draft management plan. The updated list includes activities that are already exempt, the effects of which were analyzed in the 1996 FKNMS FEIS, and will be included in the 2022 FEIS. In addition, the updated list includes one new activity, the effects of which were analyzed in the Navy's 2018 Atlantic Fleet Testing and Training Environmental Impact Statement and will be incorporated by reference in the forthcoming FEIS. The updated list of exemptions does not include DOD activities that occur outside of the sanctuary, or DOD activities that occur inside the sanctuary but are not prohibited by FKNMS regulations. The updated exemptions would apply to activities that occur within the current sanctuary boundary and the proposed boundary expansion area.

Second, NOAA proposes revising the existing FKNMS military exemption regulation to clarify how new or modified DOD activities may be exempted from the prohibitions in the future. NOAA commits to working with DOD to consider exempting new activities from the prohibitions. NOAA would use the same standard to exempt new activities as used to update the list of DOD exemptions in the forthcoming FEIS. In other words, NOAA would exempt a new activity from the prohibitions if NOAA determines such activity is not likely to injure sanctuary resources or will be carried out in a manner that avoids to the maximum extent practical any adverse impact on sanctuary resources and qualities. Any changes to this list of exempted military activities would only occur after compliance with all applicable laws, such as the Administrative Procedure Act and NEPA, as necessary, and after public notice and comment, as applicable.

NOAA has removed from the military exemption regulation reference to NMSA 304(d) Interagency Cooperation. The regulation previously referenced 304(d) as the mechanism for exempting new DOD activities from the prohibitions. However, NOAA has removed the reference to the 304(d) Interagency Cooperation process because 304(d) applies to all federal agency actions that are likely to destroy, cause the loss of, or injure sanctuary resources, including those conducted by DOD, regardless of whether the specific actions are prohibited by sanctuary regulations. Additionally, certain activities that DOD may seek to exempt from the prohibitions would not require 304(d) consultation if the activities are not likely to injure sanctuary resources.

For those DOD activities that will be exempted and that are likely to injure sanctuary resources, NOAA believes the information DOD provided to NOAA, which was included in Appendix F of the FKNMS 2019 DEIS, satisfies the requirements of a sanctuary resource statement under the NMSA 304(d) Interagency Cooperation provision. Therefore, NOAA will document in the forthcoming FEIS DOD's compliance with the NMSA 304(d) process for all activities that the DOD conducts inside or outside of the sanctuary that are likely to injure sanctuary resources. If a DOD activity described in the 2022 FEIS for this rule is modified, or new information becomes available, such that the activity is likely to destroy, cause the loss of, or injure a sanctuary resource or quality in a manner greater than considered in the FEIS, DOD would reinitiate 304(d) consultation.

Since FKNMS designation, DOD has coordinated closely and successfully with ONMS informally as well as through the Interagency Cooperation requirement under section 304(d) of the NMSA to ensure that DOD operations in

the Florida Keys that are essential to national defense are allowed to continue and are conducted to avoid and minimize impacts to sanctuary resources to the greatest extent possible. NOAA is committed to continued partnership with DOD to facilitate mission-critical defense activities in the sanctuary, including reviewing and updating new or changing DOD activities that may warrant exemption from FKNMS regulations.

i. Technical Revisions to Sanctuary Regulations

NOAA proposes including technical revisions and updates to regulatory definitions, terms, and provisions (see the general summary included in Appendix B of the DEIS). As this is the first comprehensive review of FKNMS regulations since they were implemented in 1997, NOAA has undertaken a thorough review of all existing regulations. These technical changes can be grouped in three broad categories described below.

Definitions and Terms would be updated for greater consistency with the State of Florida Administrative Code (F.A.C.), National Marine Sanctuary System-wide regulations, other sanctuary-specific regulations, proposed FKNMS regulations, and the revised management plan. For example, due to proposed new regulations, several new terms and definitions have been added including but not limited to ''anchoring,'' ''archaeological research,'' ''at risk of becoming derelict,'' ''continuous transit,'' and ''deserting.'' These new terms are explained in the relevant subsections describing the new substantive regulatory changes in this proposed rule (*i.e.,* ''at risk of becoming derelict'' is described in subsection 2.f. of this document). Several terms that are no longer needed or are being replaced with new terms would be eliminated, such as ''Ecological Reserve,'' ''no access buffer,'' and ''closed.'' Terms that are now defined in National Marine Sanctuary System-wide regulations would be removed, including ''seagrass'' and ''vessel.''

General Editorial changes would be made to clarify, remove redundancy, and reorganize and simplify regulations where possible to make them easier to understand. These changes are solely editorial, grammatical, or stylistic, and no new requirements are established by these changes.

Editorial changes to permitting regulations would be made to reduce redundancy with National Marine Sanctuary System-wide permitting regulations, which were recently published for consolidation and updating to 15 CFR subpart D (*87 FR 29606*; [11] May 13, 2022). These changes are solely editorial, and no new requirements are established by these changes.

First, since the 1997 FKNMS regulations, ONMS has published application guidelines to aid potential applicants for ONMS permits. The *application guidelines* [12] explain the necessary parts of an application and how to submit it. Updated National Marine Sanctuary System-wide regulations (15 CFR subpart D) codify these requirements. As such, in the proposed rule, NOAA would remove redundant application instructions.

Second, the proposed rule would also include two new general permit categories that are unique to FKNMS—one for Archaeological Research and one for Restoration—which are discussed in detail in other sections of this document. A third general permit category specific to FKNMS, activities that further FKNMS purposes, is found at 15 CFR subpart D. The proposed rule would only specify where different or additional information or procedures are needed for general permit categories that are unique to FKNMS (such as Tortugas North Conservation Area access permits).

Lastly, NOAA also proposes adding a provision for the certification of any valid lease, permit, license, or right of subsistence use or of access that is in existence when the revised sanctuary terms of designation become effective. Under National Marine Sanctuary System-wide regulations, FKNMS currently has authority to certify such pre-existing rights of access or use (15 CFR 922.10). The proposed rule would add procedures and criteria to clarify how ONMS would issue such certification permits for FKNMS. A certification permit would be available to persons holding such valid and pre-existing rights of access or use in the proposed sanctuary expansion areas, which are currently not under sanctuary jurisdiction but are proposed to be regulated. Certification permits would also be available to persons holding valid and pre-existing rights of access or use to conduct activities in the sanctuary that were not previously regulated but are now proposed to be regulated.

[11] *https://www.govinfo.gov/content/pkg/FR-2022-05-13/pdf/2022-09626.pdf.*

[12] *https://sanctuaries.noaa.gov/management/permits/welcome.html.*

3. Marine Zone Boundaries and Associated Regulations Within the Sanctuary

NOAA's proposed rule includes five marine zone types: Management Areas, Conservation Areas, Sanctuary Preservation Areas, Restoration Areas, and Wildlife Management Areas. This section includes a summary of the marine zones and associated regulations proposed in this rule with relevant highlights from the 2019 DEIS alternatives, and an overview of public and agency comments and how they informed this proposed rule. Global Positioning System (GPS) coordinates for all marine zones included in NOAA's proposed rule can be found in Appendices II through IX. An interactive map (available at the address and website listed in the **ADDRESSES** section of this proposed rule) showing the existing marine zones and the zoning scheme set forth in this proposed rule, including the specific purpose and intent and resources within each, has also been developed. A marine zone summary table is also provided in the supporting information and is available at the address and website listed in the **ADDRESSES** section of this proposed rule. The summary table includes the marine zones included in this proposed rule indicating the following: if the marine zone is existing, modified, or proposed new; and if modified, a description of how (spatial or regulation change); and the rationale for the proposed change. In addition to marine zone-specific regulations, sanctuary-wide regulations apply within all marine zones of the sanctuary.

a. Management Areas

NOAA proposes maintaining Key Largo and Looe Key Existing Management Areas, with minor modifications, but would rename them the ''Key Largo Management Area'' and the ''Looe Key Management Area.'' These two areas were designated as national marine sanctuaries in 1975 and 1981, respectively, which preceded designation of FKNMS and were therefore included within the FKNMS boundary and referred to as Existing Management Areas. The Looe Key Management Area currently encompasses the Looe Key Special Use Area (SUA) and Sanctuary Preservation Area (SPA). NOAA proposes only slight modifications to the Looe Key Management Area due to the proposed elimination of the Looe Key SUA and the addition of two Restoration Areas within the Looe Key Management Area boundary (see part III, section 3c. *Sanctuary Preservation Areas* and part

III, section 3d. *Restoration Areas,* below). By eliminating the Looe Key SUA, the Management Area regulations would now apply within the former SUA, and as such, certain fishing activities would be allowed where they are currently not (see the Management Area regulations for details). The Looe Key SPA will remain unchanged. The outer boundary of Looe Key Management Area would not change. With the exception of minor, technical revisions to regulations as explained in part III, section 2i *Technical Revisions to Sanctuary Regulations,* above, all other Management Area regulations would be maintained in these areas. In response to public comments, NOAA will not apply a no anchor regulation in either Management Area as proposed in the 2019 DEIS.

The Key West and Great White Heron National Wildlife Refuges, which are currently referred to as Existing Management Areas, would simply be referred to by their full names. Existing regulations in the Key West and Great White Heron national wildlife refuges would be maintained with the exception of a minor changes to the area where personal watercraft are allowed (see part III, section 4q. *Personal Watercraft* below).

i. Public and Agency Comment Highlights Specific to the Proposed Management Areas

NOAA received many comments opposing the no anchor regulation in the Key Largo Management Area proposed in the 2019 DEIS. Comments noted that this was a very large area with multi-use activities, including fishing that would be highly impacted by a no anchor regulation. Comments also noted that the area includes a variety of habitats including sandy bottom, where a no anchor regulation is not needed. Comments did however support the use of no anchor regulations in smaller, targeted areas with sensitive habitats that would benefit from protection from anchor damage. In response to these comments, NOAA will not apply a no anchor regulation in the Key Largo Management Area. However, NOAA does propose additional no anchor regulations in SPAs and Restoration Areas as described in the below sections.

NOAA received public comments on changes proposed in the 2019 DEIS to Looe Key Management Area and associated Sanctuary Preservation Area (SPA) and Special Use Area (SUA). Commenters did not support the proposed changes presented in the 2019 DEIS for a no anchor prohibition for the entire Looe Key Management Area or the proposed expansion of the SPA and SUA boundaries, which would have eliminated a large portion of the Management Area where certain fishing activities are currently allowed. Comments that did not support spatial changes to these zones noted the potential loss of fishing opportunity and access (*e.g.,* if the Looe Key SPA and SUA were expanded). In response, NOAA is not proposing to prohibit anchoring throughout the Looe Key Management Area or to expand the SPA boundaries. NOAA is proposing to eliminate the existing Looe Key SUA, as described in the Conservation Area section below. Comments supported greater protections in this area due to the presence of coral nursery and transplanting sites, for which NOAA is proposing to create Restoration Areas, as described in the Restoration Area section below.

FWC comments did not support the proposed spatial changes for Looe Key SPA and SUA due to potential loss of fishing access. However, their comments also noted the presence of coral nursery sites in the vicinity of Looe Key SPA and recommended expanding the SPA to capture these sites. Rather than change the SPA, NOAA instead proposes to establish Restoration Areas to capture these sites (see respective sections below for additional information about these zone types and proposed changes).

b. Conservation Areas

NOAA proposes to combine the existing Ecological Reserves and Special Use Areas into one Conservation Area zone type, and to maintain and apply the existing Special Use Area (SUA) regulations prohibiting fishing, requiring continuous transit without interruption, and requiring stowage of gear in such areas. As defined in this proposed rule, ''Conservation Area'' means an area of the sanctuary that provides natural spawning, nursery, and residence areas for the replenishment and genetic protection of marine life, and protects and preserves groups of habitats and species, within which activities are subject to conditions, restrictions and prohibitions to achieve these objectives. These areas consist of contiguous, diverse habitats, protect a variety of sanctuary resources and/or facilitate scientific research that promotes sanctuary management or recovery of sanctuary resources. In addition, these areas, with the exception of Western Sambo, have similar regulations, which are intended to provide the greatest level of protection to these contiguous habitats and areas set aside to support scientific research.

NOAA's proposed rule includes six Conservation Areas, all of which are existing sanctuary marine zones. Proposed changes include slightly expanding the spatial area of three existing zones (Tennessee Reef, Western Sambo, and Tortugas South), and eliminating one zone (the existing Looe Key SUA). Western Sambo would also be included as a Conservation Area with slightly different regulations as outlined below. With the exception of the zone name change to Conservation Area, NOAA proposes no changes to the existing Conch Reef SUA, Eastern Sambo SUA, or Tortugas North Ecological Reserve.

A summary of proposed Conservation Areas and changes from current FKNMS zoning and regulations follows. Note that for all of the proposed zones below the zone name would be changed to Conservation Area.

- *Conch Reef:* No changes to the regulations or area.
- *Tennessee Reef:* No changes to regulations. This zone would be extended to the 90-foot contour line to capture additional deep reef habitats.
- *Looe Key:* This existing Special Use Area zone would not be converted to a Conservation Area and would be eliminated. This area would, instead, be managed as part of the larger Management Area, as described above in section 3.a. *Management Areas.*
- *Eastern Sambo:* No changes to the regulations or area.
- *Western Sambo:* This existing zone would extend to the 90-foot contour line to capture additional deep reef habitats. In addition, no-anchor restrictions would be included for the southern portion of the zone in the area of most prominent coral reef development. All other existing regulations in Western Sambo would be maintained, including prohibitions on discharging any matter, fishing by any means, or harvesting any marine life. This is the only Conservation Area that allows access for snorkeling and diving. The 2019 DEIS included proposals to establish a shoreline idle speed no wake (Alternative 3) or no entry (Alternative 4) zone, which are not included in this proposed rule.
- *Tortugas North:* No changes to the regulations or area. In addition, see part III, section 4. *Additional Marine Zone Regulations,* below, for information on administrative changes to Tortugas North Access Permit requirements.
- *Tortugas South:* No changes to the regulations. This zone would be extended to the west by one mile along its entire length. This expansion would capture additional habitat west of Riley's Hump that is known to support

fish spawning aggregations and important deep reef habitats. Recently collected and compiled mapping coverage data and remotely operated vehicle (ROV) imagery show unique habitat features in this area, including rock escarpment formations and a well-defined ledge. These data also showed the presence of a diversity of fish species. Therefore, the southern boundary of the Tortugas South Conservation Area would not change.

There are several Conservation Areas that NOAA proposed in the 2019 DEIS that are not included in this proposed rule. These are:

- *Channel Key Bank and Moser Channel Bank:* These proposed new Conservation Areas were included in Alternatives 2, 3, and 4 to protect shallow mixed hardbottom habitat that is not currently well represented in sanctuary marine zones. NOAA's proposed rule does not include these areas as Conservation Areas due to the level of reported fishing use in the area (*e.g.,* lobster); however, NOAA includes proposed marine zones in the vicinity as idle speed no wake Wildlife Management Areas to protect the bottom habitat from vessel prop scarring (see part III, section 3e. *Wildlife Management Areas,* below).
- *Long Key Tennessee Reef:* This area was included as a Sanctuary Preservation Area in Alternative 3 and a Conservation Area in Alternative 4, designed to protect large, contiguous, diverse habitats that support natural spawning, nursery, and residence areas for a variety of marine species. As proposed in the 2019 DEIS, this zone would have included important habitat that supports a range of species life cycle needs (*e.g.,* lobster settlement) and areas of mixed bottom habitat. Informed by public and FWC comment, NOAA determined that the zone and associated regulations, as designed, may not outweigh the possible negative impact to users including loss of fishing access to local residents, lobster trap fishing, and near-shore flats fishing.
- *Tortugas Corridor:* This area was included as a Sanctuary Preservation Area in Alternative 3 and a Conservation Area in Alternative 4. This region of the sanctuary serves as a corridor for fish traveling between the Dry Tortugas National Park and known spawning sites in Riley's Hump (within the Tortugas South Conservation Area). NOAA evaluated the need to close this area to fishing, including bottom tending gear. Through consultation with FWC, NOAA determined that the impact to user groups, most notably fishermen, may outweigh the resource protection goals of this proposed zone and associated regulations. However, NOAA acknowledges the importance of conserving fish and wildlife habitat and corridors, and will reconsider this proposal in the future as needed.

i. Public and Agency Comment Highlights Specific to the Proposed Conservation Areas

Public comments related to Conservation Areas both supported the status quo and supported creating additional areas and/or expanding existing or proposed areas. A selection of specific issues is noted here.

Public and agency comments supported expanding the existing Western Sambo Ecological Reserve and the Tennessee Reef Special Use Area to include deep water coral reef habitats. In these proposed expanded zones, FWC also specifically requested that in areas deeper than 60 feet, hook and line trolling or drift fishing be allowed. The proposed rule does not allow fishing in these expanded areas. Conservation Areas are designed to provide the greatest level of protection for the habitats and species within these zones, as such NOAA is not including exceptions for fishing in a portion of these zones. In addition, NOAA determined that consistent regulations would better facilitate public understanding and compliance.

Public and agency comments generally supported extending the existing Tortugas South Ecological Reserve westward to capture additional habitat and an area shown to support multi-fish aggregation activity. Agency comments, specifically from FWC, also recommended that NOAA remove 34 square miles from the southern portion of this zone to allow for fishing opportunities in an area that has been closed to fishing since 2001, noting that the vast majority of known coral reefs in the Tortugas region and fish spawning aggregations would still be included in marine zones in this area. As noted above, NOAA determined that maintaining protection in the southern portion of Tortugas South is warranted due to recently collected and compiled data showing unique habitat features in this area, which support the presence of a diversity of fish species.

Specific to the 2019 DEIS proposal to establish three large, contiguous Conservation Areas in the sanctuary (Carysfort Reef, Long Key Tennessee Reef, and Tortugas Corridor) to further protect interconnected habitats and various stages of marine life, public and agency comments noted the value of providing these additional ecosystem-level management and protection, however also noted the need to properly design a network of reserves. Public comments also included general concern about loss of access and opportunity for use in all the proposed areas. In response to these comments, NOAA is not proposing these three specific areas.

While NOAA is not proposing to include these three new large, contiguous marine zones in the proposed rule at this time, the specific zones proposed in the 2019 DEIS alternatives and the overarching concept of protecting diverse, connected habitats, are topics NOAA may explore more robustly in the future. Specifically, FWC noted that ''[t]he knowledge gained from research and monitoring related to the existing spatial management in FKNMS provides a body of knowledge indicating that a properly designed network of reserves containing an appropriate array of management approaches could have substantial positive impacts to the Florida Keys ecosystem and fisheries.'' In light of this, FWC recommended NOAA establish an interagency team to evaluate the merits of a carefully designed network of marine reserves. NOAA acknowledges the important research data FWRI scientists have contributed over the years related to performance of the existing network of sanctuary marine zones, and NOAA will continue to work with state and academic partners to monitor the effects of any revised sanctuary zone network, and to explore new contiguous zones in the future.

Public and agency comments did not support creating new Conservation Areas to protect shallow mixed bank and hardbottom habitat in the middle keys, bayside at Channel Key Bank and Moser Channel Red Bay Bank. Public comments noted these are important lobster and flats fishing areas and did not support creating transit only areas; however, public and agency comments did support additional idle speed no wake regulations in these general areas (see the Wildlife Management Area section below).

c. Sanctuary Preservation Areas (SPAs)

NOAA's proposed rule includes 17 SPAs. As defined in NOAA's proposed rule, ''Sanctuary Preservation Area'' means an area of the sanctuary that encompasses a discrete, biologically important area, within which activities are subject to conditions, restrictions and prohibitions, to avoid concentrations of uses that could result in significant declines in species populations or habitat, to reduce conflicts between uses, to protect areas that are critical for sustaining important

marine species or habitats, or to provide opportunities for scientific research.

The proposed rule expands two existing SPAs (Carysfort Reef and Alligator Reef) to capture deep reef habitat, connects the existing Key Largo Dry Rocks and Grecian Rocks SPAs, slightly expands Sombrero Key, eliminates the existing French Reef and Rock Key SPAs, creates two new SPAs at Turtle Rocks and Turtle Shoal, and makes no spatial changes to the eleven existing SPAs: The Elbow, Molasses Reef, Conch Reef, Davis Reef, Hen and Chickens, Cheeca Rocks, Coffins Patch, Newfound Harbor Key, Looe Key, Eastern Dry Rocks, and Sand Key SPAs.

SPA regulations included in the proposed rule eliminate the current exception for catch and release fishing in four existing SPAs where it is currently applied (Conch Reef, Alligator Reef, Sombrero Key, and Sand Key) and eliminate the practice of issuing bait fishing permits (See part III, section 4. *Additional Marine Zone Regulations* for a full discussion of NOAA's proposal related to bait fishing in the SPAs). In addition, NOAA proposes to prohibit anchoring in all SPAs and to include a new definition for ''anchoring,'' which would mean securing a vessel to the seabed by any means. All other existing SPA regulations would remain, including prohibitions on discharging any matter except cooling water and fishing by any means or harvesting any marine life. Consistent regulations throughout SPAs are intended to clarify for the public what is allowed and what is restricted to promote understanding and compliance and to facilitate enforcement and management.

A summary of proposed Sanctuary Preservation Areas and changes from current FKNMS zoning and regulations and/or the 2019 DEIS alternatives follows (listed northeast to southwest). For all of the zones listed below, the SPA regulations as outlined above and at 15 CFR 922.164(e), would apply.

- *Turtle Rocks:* This is a proposed new SPA. This marine zone is expanded slightly from the area included in the 2019 DEIS alternatives to align with the John Pennekamp Coral Reef State Park No Lobster Trap zone and to capture additional historical resources.
- *Carysfort Reef:* This existing SPA would be expanded to the 90-foot contour to include additional deep reef habitat. This SPA would not include any limited entry regulations as had been proposed in the 2019 DEIS preferred alternative (Alternative 3).
- *The Elbow:* Existing SPA; no proposed boundary change.
- *Key Largo Dry Rocks-Grecian Rocks:* This is a proposed modified SPA that would connect two existing SPAs. The proposed rule includes a smaller area than was included in the 2019 DEIS preferred alternative (Alternative 3) due, in part, to public and agency comments noting that the larger zone included sandy bottom area and that SPA protections should be focused on the sensitive coral reef habitats.
- *French Reef:* This existing SPA would be eliminated. General sanctuary-wide regulations would apply in this area and mooring buoys would be maintained.
- *Molasses Reef:* Existing SPA; no proposed boundary change.
- *Conch Reef:* Existing SPA; no proposed boundary change. The regulatory exception that allows catch and release fishing by trolling in the SPA would be removed.
- *Davis Reef:* Existing SPA; no proposed boundary change.
- *Hen and Chickens Reef*: Existing SPA; no proposed boundary change.
- *Cheeca Rocks:* Existing SPA; no proposed boundary change. Agency comments from NMFS, FWC and from the SAFMC recommended that additional areas be included for protection in the Cheeca Rocks SPA. FKNMS reviewed these proposed areas and rather than making the existing Cheeca Rocks SPA larger, proposes to include these areas as Restoration Areas (see part III, section 3d. *Restoration Areas,* below).
- *Alligator Reef:* This existing SPA would be expanded to the 90-foot contour to include additional deep reef habitat. The regulatory exception that allows catch and release fishing by trolling in the SPA would be removed.
- *Turtle Shoal:* This is a proposed new SPA. This marine zone would include the same area as proposed in the 2019 DEIS preferred alternative (Alternative 3).
- *Coffins Patch:* Existing SPA; no proposed boundary change.
- *Sombrero Key:* This existing SPA would be expanded slightly to include remnant elkhorn corals, a species listed under the Endangered Species Act. In addition, this proposed expansion would square off the existing triangular shape facilitating marking, compliance, and enforcement. This SPA would not include any limited entry regulations as had been proposed in the 2019 DEIS preferred alternative (Alternative 3). The regulatory exception that allows catch and release fishing by trolling in the SPA would be removed.
- *Newfound Harbor Key:* Existing SPA; no proposed boundary change.
- *Looe Key:* Existing SPA; no proposed boundary change.
- *Eastern Dry Rocks:* Existing SPA; no proposed boundary change.
- *Rock Key:* This existing SPA would be eliminated. General sanctuary-wide regulations would apply in this area and mooring buoys would be maintained.
- *Sand Key:* Existing SPA; no proposed boundary change. This SPA would not include any limited entry regulations as had been proposed in the 2019 DEIS preferred alternative (Alternative 3). The regulatory exception that allows catch and release fishing by trolling in the SPA would be removed.

i. Public and Agency Comment Highlights Specific to the Proposed SPAs

The 2019 DEIS included proposals to modify existing SPA boundaries, add new SPAs, and modify regulations within SPAs. NOAA received public comments specific to these proposals, too many to include for each individual SPA; therefore, the summary below is by general theme.

The 2019 DEIS included a proposal to apply idle speed no wake and no anchor regulations in all SPAs. Public and agency commenters did not support an idle speed no wake regulation due to several factors, including the size of many zones and the inclusion of portions of Hawk Channel. In general, comments supported greater protections to coral and other sensitive habitats from anchor damage. Comments also addressed the need for additional, well placed and maintained mooring buoys, particularly if additional no anchor restrictions would be applied. Based on the extensive input received through public comment and agency evaluation of the conservation need and value of idle speed no wake regulations in all SPAs, NOAA's proposed rule does not include an idle speed no wake regulation for SPAs. However, NOAA's proposed rule does include no anchor regulations in all SPAs.

The 2019 DEIS included proposed spatial changes to several existing SPAs. NOAA proposed expanding two SPAs (Carysfort Reef and Alligator Reef) and the Tennessee Reef Conservation Area (discussed in part III, section 3*b. Conservation Areas,* above) to the 90-foot depth contour, to include additional deep coral reef habitat. Public comments both supported and opposed this proposal for a variety of reasons. Supporters noted such expansions would provide additional protections to deep reef habitats that show potential resilience to the stony coral tissue loss disease, could serve as a source for coral reef seed stock, and would provide greater ecosystem level

protection. Public comments that opposed this proposal did so largely due to general opposition to limiting any access for fishing activity. For these proposed deep reef SPA expansions, FWC also specifically requested that in areas deeper than 60 feet, hook and line trolling or drift fishing be allowed, noting their desire to allow as much user access as possible while still protecting coral reef habitat from physical damage. NOAA determined that consistent regulations would better facilitate public understanding and compliance and therefore, NOAA is not including exceptions for fishing in a portion of these zones.

Of the eight proposed new SPAs included in the 2019 DEIS Alternative 3, NOAA proposes including two in this proposed rule: Turtle Rocks and Turtle Shoal. Both would protect nearshore patch reef habitats, which is a habitat type that is currently underrepresented in the sanctuary zoning network and potentially consists of some of the most resilient areas of the sanctuary. Protecting these resilient areas from local stressors is intended to maintain the health of these sites, associated sanctuary resources, and provide a refuge for important frame-building and Endangered Species Act listed corals, which could potentially serve to promote recovery of surrounding reef sites by maintaining resilient reproductive populations of these species whose offspring can reseed degraded areas. Public and agency comments supported additional protections in these patch reef areas including no fishing and no anchoring. Public comments also supported establishing these areas as Conservation Areas to provide the greatest level of protection for these sensitive habitats. However, at this time NOAA is including these areas as SPAs to maintain some level of public access. FWC comments supported making Turtle Rocks slightly larger to encompass the existing John Pennekamp Coral Reef State Park No Lobster Trap zone, and DEP recommended that the sanctuary coordinate management with the State park. The proposed zone at Turtle Rocks is expanded slightly from what was included in the 2019 DEIS. FKNMS will continue to coordinate with the State Park for this marine zone and more generally.

The 2019 DEIS did not propose to eliminate any existing SPAs. However, following public and agency comments, NOAA is now proposing to eliminate two existing SPAs (French Reef SPA in the Upper Keys and Rock Key SPA in the Lower Keys) to allow for multiple use in these areas. Some public commenters expressed concern that NOAA establishes new marine zones with access restrictions, particularly impacting fishing access, and does not subsequently re-open areas for fishing once the marine zone has either achieved its purpose or resource conditions have shifted. FWC comments specifically supported the elimination of French Reef and Rock Key SPAs.

NOAA proposes to eliminate French Reef SPA in the Upper Keys and Rock Key SPA in the Lower Keys because the habitats no longer contain reproductively viable populations of Endangered Species Act-listed coral reef species or other important reef-building corals. These areas also were selected due to their proximity to other SPAs; therefore, they would promote continued habitat protections and separation of conflicting uses in the general area. Mooring buoys in these areas would be maintained. Sanctuary-wide regulations would continue to apply in these areas.

d. Restoration Areas

Given the increase in important habitat restoration activities in the sanctuary over the past two decades, NOAA's proposed rule includes a new Restoration Area zone type. This new Restoration Area zone would include two distinct designations:

- *Restoration Area—Nursery* zone type would encompass existing nursery areas and would be regulated similar to Conservation Areas to provide the highest level of protection to sensitive corals and other organisms while they are being propagated. These regulations would prohibit fishing, anchoring, and discharges and would require that vessels remain in transit through the area.

- *Restoration Area—Habitat* zone type would protect sites where active transplanting and restoration activities are ongoing. These areas would be managed with the same regulations that apply to SPAs to provide for access and educational opportunities while prohibiting fishing, anchoring, and discharges.

In the proposed rule, ''Restoration Area'' would be defined as an area of the sanctuary that supports species or habitat recovery, including protection for short and long-term propagation nurseries (referred to as Restoration Areas—Nursery) and active restoration sites (Restoration Areas—Habitat), within which activities are subject to conditions, restrictions, and prohibitions to achieve these objectives.

i. Restoration Areas—Nursery

Specifically, the proposed rule includes nine Restoration Areas—Nursery zones with regulations prohibiting fishing, anchoring, and discharges and requiring that vessels remain in transit through the area. All proposed Restoration Areas—Nursery zones are very small (individual zones are approximately 70 acres (0.1 square miles)) and are designed to protect the underwater nursery structures and associated corals growing on them with a 200-yard buffer.

Three of the proposed Restoration Areas—Nursery zones (Pickles Reef, Marathon, and Sand Key) were included in the 2019 DEIS as individual SPA zones in Alternatives 2 and 3. These were included in the 2019 DEIS as representative coral nursery sites in the Upper, Middle and Lower Keys. NOAA proposes to establish all existing, permitted coral nurseries as distinct Restoration Areas—Nursery zones. The following existing, permitted coral nurseries are proposed as distinct Restoration Areas—Nursery zones (listed northeast to southwest):

- *Carysfort Reef—Nursery:* This zone is a discrete area within the larger Carysfort Reef SPA.
- *Pickles Reef West—Nursery:* In the 2019 DEIS alternatives 2 and 3, this area was proposed as a SPA. In the proposed rule this marine zone would instead become a Restoration Areas—Nursery and be expanded to include multiple coral nursery sites at this location, which has been shown to be resilient to high water temperatures, storms, and coral disease.
- *The Elbow Reef—Nursery:* This area was not proposed in the 2019 DEIS; however, it is proposed here to provide additional protections to an existing, permitted coral nursery site.
- *Marathon—Nursery:* In the 2019 DEIS alternatives 2, 3, and 4 this area was proposed as a SPA. In the proposed rule this marine zone would instead become a Restoration Areas—Nursery. NOAA is not proposing any spatial changes to this zone between the DEIS and proposed rule.
- *Middle Keys—Nursery:* While not included in the 2019 DEIS, NOAA proposes Middle Keys—Nursery to provide additional protections to an existing, permitted coral nursery site.
- *Looe Key East—Nursery:* While not included in the 2019 DEIS, NOAA proposes Looe Key East—Nursery to provide additional protections to an existing, permitted coral nursery site.
- *Looe Key West—Nursery:* While not included in the 2019 DEIS, NOAA proposes Looe Key West—Nursery to

provide additional protections to an existing, permitted coral nursery site.

- *Key West—Nursery:* While not included in the 2019 DEIS, NOAA proposes Key West—Nursery to provide additional protections to an existing, permitted coral nursery site.
- *Sand Key—Nursery:* In the 2019 DEIS alternatives 2 and 3, NOAA included the coral nursery at Sand Key as the Key West SPA; however, it is proposed here as a Restoration Areas—Nursery. NOAA is not proposing any spatial changes to this zone between the DEIS and proposed rule.

ii. Restoration Areas—Habitat

NOAA also proposes establishing four new Restoration Areas—Habitat to protect existing, permitted active coral reef restoration sites. These were not included in the DEIS as distinct marine zones. All proposed Restoration Areas—Habitat are small, ranging from 5 to 220 acres (<0.01 to 0.35 square miles), with an average size of 85 acres (0.13 square miles), and are designed to protect sites supporting active coral restoration with a 200-yard buffer. The proposed rule would establish the following Restoration Areas—Habitat with regulations prohibiting fishing, anchoring, and discharges:

- *Horseshoe Reef—Habitat:* This is the only Mission: Iconic Reefs site that is not already included within an existing SPA. The new proposed Restoration Areas—Habitat zone would specifically encompass the portion of Horseshoe Reef targeted for active restoration and would not affect the remainder of the reef.
- *Pickles Reef East—Habitat:* This is an active and long-term restoration site that includes a large population of Endangered Species Act listed elkhorn coral and staghorn coral that has been particularly vulnerable to anchor damage.
- *Cheeca Rocks East—Habitat:* This is an active and long-term restoration site with one of the largest remaining populations of Endangered Species Act listed star coral (*Orbicella* spp.), still contains intact populations of species susceptible to Stony Coral Tissue Loss Disease and appears to be a site that is more resilient to bleaching and disease.
- *Cheeca Rocks South—Habitat:* This is an active and long-term restoration site with one of the largest remaining populations of Endangered Species Act listed star coral (*Orbicella* spp.), still contains intact populations of species susceptible to Stony Coral Tissue Loss Disease and appears to be a site that is more resilient to bleaching and disease. In addition, NMFS, FWC, and SAFMC comments specifically recommended this site for additional habitat protections.

In this proposed rule all Restoration Areas—Habitat would protect active coral reef restoration; however, NOAA does not intend to limit application of this proposed new zone type to coral restoration activities only. Conceivably, the Restoration Areas—Habitat zone type could be applied in the future in any area to support and facilitate restoration of other degraded habitats or species (*e.g.,* seagrass, hardbottom, etc.). In addition, a framework for establishing short-term, time sensitive protections to support critical management including habitat restoration is described in a proposed, updated temporary regulation for emergency and adaptive management (see part III, section 2. *Sanctuary-wide Regulations* above and the proposed full regulatory text included in 15 CFR 922.165.) Additional information about how this zone type may be used in the future can be found in the revised draft management plan. Future nursery and habitat restoration area site locations, sizes, and duration will be informed by site specific habitat restoration plans, which could be prepared as part of a vessel grounding incident, disease response, or Restoration permit application.

Finally, to further facilitate habitat restoration and complement this zone type, NOAA proposes including a new category of general permit for Restoration.

iii. Public and Agency Comment Highlights Specific to the Proposed Restoration Areas

Public and agency comments on the 2019 DEIS supported additional protections for coral nursery sites. However, public and agency comments, specifically FWC's, went beyond the 2019 DEIS to recommend additional protections for coral reef transplanting sites and that a specific zone type be created to further advance habitat restoration efforts and for the purpose of facilitating and educating the public about habitat restoration.

In addition, FWC comments recommended that NOAA develop, in partnership with FWC and other stakeholders, a process to quickly open and close areas for temporary, in-water nurseries. For example, ''pop-up'' nurseries could be deployed, in which corals are reared directly adjacent to restoration sites and then transplanted when ready. NOAA believes that the Temporary Regulation for Emergency and Adaptive Management, as described in part III, section 2c. *Sanctuary-wide Regulations,* above, and at 15 CFR 922.165, serves this purpose.

e. Wildlife Management Areas (WMAs)

NOAA's proposed rule includes 47 WMAs. In this proposed rule, ''Wildlife Management Area'' means an area of the sanctuary in which various access and use restrictions are applied to manage, protect, preserve, and minimize disturbance to sanctuary wildlife resources, including but not limited to endangered or threatened species, or the habitats, special places, or conditions on which they rely. The access and use restrictions applied in each area are specific to the management goals of that area.

The proposed rule includes no change and/or only minor technical modifications to existing regulations for nine existing WMAs, spatial and/or regulatory modifications for 15 existing WMAs, and proposes 23 new WMAs. In addition, the proposed rule eliminates two existing WMAs and does not include eight zones that were included as new WMAs in the 2019 DEIS. The average size of WMAs (excluding the proposed Pulley Ridge and existing Tortugas Bank zones) is 0.62 square miles, ranging from 0.01 to 6.37 square miles (the proposed new Pelican Shoal WMA and Marquesas Turtle WMA, respectively).

WMAs are generally designed to protect shallow water habitats and species dependent on those habitats. Access and use restrictions applied in WMAs address the specific protections necessary to minimize disturbances to sanctuary habitats and wildlife and are therefore tailored for the specific location and resource need. In addition, these access and use restrictions may be for a limited or seasonal time period. The proposed WMAs aim to balance resource protection with compatible uses. This action generally favors sanctuary resource protection over access where biological and impact data demonstrate a need; however, the least restrictive access regulations and zone size needed to meet the resource protection goals are proposed.

Due to the number and range of proposed WMAs, they are discussed in relevant sections below (*e.g.,* existing zones with no change, proposed new zones etc.); with general overarching public and agency comments included in this introductory section and where public or agency comments directly informed the proposed rule, they are included with the individual WMA description. For a complete list of WMAs in this proposed rule, see 15 CFR 922.164(d).

Public comments both supported and opposed the proposed WMA modifications and new zones. Public comments received also indicated that many in the community are not fully aware of the existing WMAs and associated regulations. Many public comments also provided more tailored input with specific information about the resource status at certain WMAs, human use and other existing and/or potential impacts to resources at the site, and in some cases, specific alternate proposals for where and how to manage the site. These comments generally supported taking some action to protect sanctuary resources while also allowing the greatest level of access and use. Most public comments included some mention of the importance and challenge of marking WMAs and educating the public and users.

NOAA also received several public comments suggesting additional areas to include as new WMAs. NOAA used this information to modify the spatial configuration of one area (proposed in the 2019 DEIS as West Barracouta Key Flats, but now in this proposed rule called Ballast and Man Keys Flats). NOAA is not proposing any additional WMAs beyond those included and analyzed in the 2019 DEIS because NOAA would need additional human use and natural resource information to fully evaluate the need and overall benefit of including these additional areas in the sanctuary zoning scheme. NOAA removed several WMAs that were proposed in the 2019 DEIS because NOAA does not have sufficient information regarding use impacts to warrant proposing restrictions. More detail on these zones is included below in section iv. *Existing and DEIS Proposed WMAs that would be Eliminated.*

Agency comments also included input on individual WMA proposals. FWC commented on all the WMAs, specifically providing additional human use, ecological, and biological resource data, particularly for bird species of state interest, and requested that NOAA consider each zone on a case-by-case basis to more closely evaluate the balance between resource protection goals and user access. DEP commented on WMAs located within or adjacent to State Parks and/or Aquatic Preserves, and USFWS commented on WMAs located within National Wildlife Refuge boundaries. Agency comments from FWC, DEP, and USFWS also provided additional use and resource data and considerations for cooperative management. USFWS additionally provided guiding principles for their recommendations that focused on the most impacted and their habitat needs within the National Wildlife Refuges, including migratory birds (*e.g.,* great white heron, reddish egret, little blue heron, and magnificent frigatebirds) and wading birds, seabirds and shorebirds. USFWS recommended, where needed, a 100-yard buffer to minimize disturbance to wading birds and other migratory bird species that are documented to be the most impacted by human disturbance from boats. The Naval Air Station Key West (NASKW) commented on WMAs located within their testing and training operational area and/or adjacent to their property, specifically if the proposals may impact their operations. Notably, NASKW commented on the proposed new Demolition Key marine zone (which is not included in this proposed rule), the proposals for shoreline vessel speed restrictions (which is also not included in this proposed rule), and the Marquesas Turtle zone (which has been modified in this proposed rule).

Nine of the twenty-eight existing WMAs have no spatial or regulatory changes, or only minor technical changes, in this proposed rule. The minor technical changes include (1) spatial changes that clarify exceptions to access regulations for certain channels and (2) regulatory changes in zone access terminology such that the existing ''no access buffer'' and ''closed'' regulations would be changed to ''no entry'' to be consistent with the intent of the regulation and with state regulations.

NOAA proposes to eliminate the existing ''no access buffer'' and ''closed'' zone regulation, replacing them with a ''no entry'' regulation that has the same effect. The existing ''no access buffer'' zone means a portion of the sanctuary where vessels are prohibited from entering regardless of the method of propulsion. In general practice the ''no access buffer,'' ''closed,'' and ''no entry'' regulations have similar intent. In addition, this change in nomenclature creates consistency in application of this regulation throughout the sanctuary and aligns with state regulations. In addition to the zones discussed in this section, the no-access buffer zones at Crocodile Lake and Marquesas Keys WMAs would be eliminated, however both of these WMAs would have additional minor spatial and/or regulatory changes, so are more fully discussed in the section below.

ii. Existing WMAs With Proposed Spatial or Regulatory Changes

The WMAs in this proposed rule with no spatial or regulatory changes, or only minor technical changes, follow:

- *Horseshoe Key:* This is an existing 300 foot no access buffer zone with the island closed by the USFWS to decrease disturbance to nesting and roosting birds. NOAA proposes a technical update to change the existing no access buffer regulation to no entry.
- *West Content Keys:* This is an existing zone with idle speed no wake in selected creeks and no access buffer in one cove to decrease disturbance to shorebirds using the area for nesting and foraging. NOAA proposes a technical update to change the existing no access buffer regulation to no entry.
- *Sawyer Key:* This is an existing zone where the tidal creeks on the south side are closed to decrease disturbance to nesting birds. NOAA proposes a technical update to change the existing closed regulation to no entry.
- *East Harbor Key:* This is an existing 300 foot no access buffer zone to decrease disturbance to various resting and nesting birds. NOAA proposes a technical update to change the existing no access buffer regulation to no entry.
- *Cayo Agua Keys:* This is an existing zone with idle speed no wake in all navigable creeks to decrease disturbance to nesting and roosting birds, including great white heron, osprey, and the large numbers of resting shorebirds. There would be no change from the status quo.
- *Big Mullet Key:* This is an existing 300 foot no motor zone around the island to decrease disturbance to nesting birds and resting shorebirds. There would be no change from the status quo.
- *Little Mullet Key:* This is an existing 300 foot no access buffer zone to decrease disturbance to nesting, roosting, and foraging birds and shallow seagrass flats around the island, which exhibit prop scarring. NOAA proposes a technical update to change the existing no access buffer regulation to no entry.
- *Pelican Shoal:* This is an existing zone that was proposed to be eliminated in the DEIS; however, in recent years this area has been repopulated with nesting roseate terns and is an area that is thought to be the last active ground-breeding location for this ESA-listed species in Florida. Additionally, this is an FWC Critical Wildlife Area that was established in 1990. For these reasons, NOAA would retain Pelican Shoal WMA in the proposed rule.
- *Tortugas Bank:* This is an existing sanctuary zone prohibiting anchoring by vessels over 50 meters in length, which protects coral and hardbottom habitats

on Tortugas Bank from anchor damage. NOAA proposes no change in the spatial area or regulations for this zone; however, it would be included as a WMA since the purpose and intent of the zone align with those of WMAs.

ii. Existing WMAs With Proposed Spatial or Regulatory Changes

As noted above, WMAs protect important habitats and species dependent on those habitats with access and use restrictions tailored for the specific location and resource need. Listed below (approximately northeast to southwest) are existing WMAs with proposed changes to spatial boundaries, regulations, or a combination of both. These proposed changes were informed by public and agency comments, and additional data on resources and human uses. With this additional input, NOAA refined the spatial areas included in WMAs and the specific regulations that apply to most efficiently protect sanctuary resources while allowing the greatest level of use compatible with the resource protection goals. A summary of proposed changes follows:

- *Crocodile Lake:* This existing March 1 to October 1 no access buffer WMA would be modified to become a year-round no entry zone but would allow transit through Steamboat Creek. The portion of the existing Crocodile Lake WMA on the northwestern shoreline of Eastern Lake Surprise would become part of the Eastern Lake Surprise WMA as it is contiguous with that area. Crocodile Lake WMA is intended to decrease disturbance to ESA-listed species, including American crocodile and West Indian manatee, and various bird species that use the area for foraging, nesting and roosting. This WMA is also intended to protect the shallow seagrass flats near Card Sound Bridge that have been impacted by vessel groundings and exhibit prop scarring. This is a slight modification from the 2019 DEIS alternatives including shifting a portion of the zone to Eastern Lake Surprise and allowing transit in Steamboat Creek, which was requested through public and agency comment.
- *Eastern Lake Surprise:* This existing WMA would be modified to include a no entry area along the western shoreline that is currently part of the Crocodile Lake WMA. In the canal and basin on the southeast side of Eastern Lake Surprise, the existing regulations would be changed from idle speed no wake to no entry. All other regulations would be maintained. Like Crocodile Lake WMA, this WMA is intended to decrease disturbance to ESA-listed species including American crocodile and West Indian manatee. This is a slight modification from the 2019 DEIS alternatives due to the addition of the western shoreline that is now included in Crocodile Lake WMA.
- *Dove and Rodriguez Keys:* These two existing WMAs would be combined to create one no motor zone WMA. The existing regulations that close two small islands near Dove Key would be eliminated. This WMA is intended to decrease disturbance to a variety of birds, fish, and the benthic community, including seagrass and hardbottom habitat. The shallow seagrass flats in this area have been impacted by vessel groundings and exhibit prop scarring. This proposed rule modifies the 2019 DEIS preferred alternative (Alternative 3), which included a no entry zone around Dove Key and a no anchor regulation throughout.
- *Tavernier Key:* This is an existing no motor zone. NOAA proposes to maintain the existing no motor regulation, add no anchor, and provide exceptions to these regulations in Tavernier Creek and the unnamed channel to the northeast leading to it. This WMA is intended to decrease disturbance to a variety of birds, fish, and the benthic community, including seagrass and hardbottom habitat. The shallow seagrass flats in this area have been impacted by vessel groundings and exhibit prop scarring. The proposed rule would be the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Snake Creek:* This existing no motor zone would be extended to the west along the shoreline up to but not including the existing Monroe County no motor zone as was included in the 2019 DEIS preferred alternative (Alternative 3). An exception to the no motor regulations would be made for Snake Creek itself and the three channels providing access to Windley Key. This WMA is intended to decrease the disturbance to a variety of birds using the area for nesting, roosting, and foraging, and protect shallow water habitat used by various fish species. The shallow seagrass flats have been impacted by vessel groundings and exhibit prop scarring.
- *Cotton Key:* This existing no motor zone would be extended to include an area west of Cotton Key that exhibits prop scarring. The 2019 DEIS preferred alternative (Alternative 3) included expanding the WMA to include additional area to the south east of the existing zone; however, this expansion is not included in this proposed rule due to public and agency concerns related to proximity and the potential to interfere with access to Whale Harbor Channel. In addition to protecting shallow seagrass habitats, this WMA is intended to decrease disturbance to nesting and roosting birds.
- *East Content Keys and Upper Harbor Key Flats:* East Content Keys and Upper Harbor Key Flats are both existing marine zones that are proposed to be modified in this proposed rule. East Content Keys WMA consists of an existing small idle speed no wake zone in the largest tidal creek. NOAA proposes applying additional idle speed no wake regulations in the remaining tidal creeks at East Content Keys. In addition, the seagrass flats to the east, north, and south of East Content Key, extending beyond Upper Harbor Key, would be designated as idle speed no wake as this area exhibits scarring. This large, idle speed no wake zone was included in the 2019 DEIS Alternative 4 as the Upper Harbor Key Flats WMA. Upper Harbor Keys WMA is an existing 300-foot no access zone around the entire island. NOAA proposes changing this no access buffer zone to a no entry zone that would be encompassed within the larger proposed East Content Keys and Upper Harbor Key Flats idle speed no wake WMA.
- *Snipe Keys:* This existing marine zone would have a no entry area added, which is an important roosting area for magnificent frigatebirds that are easily disturbed by motorized and non-motorized boat traffic. This proposed expansion is just south of the existing no motor and idle speed no wake areas, which would not change. The proposed rule would be the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Mud Keys:* This existing marine zone includes idle speed no wake and closed areas within the channels. NOAA proposes updating this to idle speed no wake in all channels. Through discussion with USFWS, NOAA determined that idle speed no wake would be sufficient to decrease disturbance to nesting, roosting, and foraging birds while also providing user access in this area.
- *Lower Harbor Keys:* This existing zone includes idle speed no wake in selected tidal creeks. NOAA proposes expanding the idle speed no wake area to further protect and decrease disturbance to various nesting, roosting, and wading birds. The expanded area would also capture surrounding seagrass flats that exhibit prop scarring. NOAA also proposes including slightly more area than the 2019 DEIS preferred alternative (Alternative 3) included to provide better protection for wading bird species in this location.
- *Bay Keys:* This existing marine zone would expand the current idle speed no

wake area in the channel leading to the northwest island, maintain that island as no motor, and would include an additional adjacent island to the southeast as no motor. Southwest Bay Key, the existing no motor zone, is used as a roosting area for magnificent frigatebirds, a species that is highly disturbed by boater use. These proposed modifications, informed by USFWS data, would decrease disturbance to nesting and roosting birds, including great white heron, tricolored heron, little blue heron, cormorant, osprey, and various other small birds. The WMA in this proposed rule would be the same as the 2019 DEIS Alternative 2.

- *Cottrell Key:* This existing no motor zone would be updated to a no entry zone to decrease disturbance to nesting and roosting birds. Cottrell Key has one of the highest annual counts of nesting great white herons in the Lower Keys, and serves as an important island for other nesting, roosting and foraging birds. The WMA in this proposed rule would be the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Woman Key:* This existing marine zone, which currently includes one-half of the beach and sand spit as closed, would be changed to no entry and expanded to include 300-feet offshore of the beach to further decrease disturbance to nesting and roosting birds and ESA-listed sea turtles, which may be impacted during nesting by high concentrations of visitors. The WMA in this proposed rule would be the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Boca Grande Key:* This existing marine zone currently includes a closed area on the south half of the beach and the island is closed by the USFWS. In this proposed rule the WMA would be changed to no entry and expanded to include 300-feet offshore of the beach to decrease disturbance to nesting and roosting birds and ESA-listed sea turtles, which may be impacted during nesting by high concentrations of visitors. The WMA in this proposed rule would be slightly smaller than the 2019 DEIS preferred alternative (Alternative 3), which extended further along the shoreline at both ends of the marine zone (to the north and east).
- *Marquesas Keys:* This is an existing zone with a 300-foot no motor regulation around three keys, a 300-foot no access buffer zone around one island (all on the western side of Mooney Harbor), and idle speed no wake in a southwest tidal creek. NOAA proposes to maintain all of these areas; however, the no motor and no access buffer zones would be updated to no entry and would add one additional island on the south end of Mooney Harbor as no entry. The idle speed no wake zone in the southwest tidal creek would not change. Based on public comments and discussions with USFWS related to the resource status and protection needs for the main island of Long Beach, NOAA does not propose to include a no entry area around the main island, which was included in the 2019 DEIS preferred alternative (Alternative 3). USFWS noted the potential value of a no motor zone; however, at this time no additional marine zone would be proposed for this area. Therefore, the WMA in this proposed rule is a combination of status quo and the 2019 DEIS preferred alternative (Alternative 3) as outlined above.

iii. Proposed New WMAs

NOAA proposes including 23 new WMAs. All of these areas were included in the 2019 DEIS with various spatial and regulatory options across Alternatives 2, 3, and 4. However, nine of the newly proposed WMAs have been modified in NOAA's proposed rule in either their spatial boundary, access regulations, or both (Whitmore Bight, Channel Key Banks, Red Bay Bank, Marathon Oceanside, Happy Jack Keys, Western Dry Rocks, Marquesas Turtle, Barracuda Keys, and Ballast and Man Keys Flats). These changes have stemmed directly from public and agency comments, resource status, and existing or potential resource impact.

- *Barnes-Card Sound:* This is a proposed new WMA intended to decrease disturbance to nesting and wading birds, shallow water gamefish, and impacts to the benthic community including seagrass and macroalgae where shallow seagrass flats exhibit prop scarring. The WMA in this proposed rule would be the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Whitmore Bight:* This is a proposed new no motor WMA which has been modified slightly from the 2019 DEIS Alternative 2. The proposed rule would include an area along the shoreline in John Pennekamp State Coral Reef Park up to but not including the State Park managed no motor zone. This proposed zone is intended to decrease disturbance to the benthic community, including hardbottom habitat that supports juvenile lobster and various reef and game fish. Shallow seagrass flats in this area exhibit prop scarring.
- *Pelican Key:* This is a proposed new no entry WMA, which is the same as the 2019 DEIS Alternative 4. The proposed rule would include the most protective measures for this area to decrease disturbance of roosting and wading birds including magnificent frigatebirds and pelicans. Shallow seagrass flats in this area exhibit prop scarring.
- *Pigeon Key:* This is a proposed new no entry WMA intended to decrease disturbance to nesting wading birds including roseate spoonbills and roosting magnificent frigatebirds. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Ashbey-Horseshoe Key:* This is a proposed new no entry WMA intended to decrease disturbance of brown pelicans and magnificent frigatebirds roosting in Lignumvitae Key Aquatic Preserve and Lignumvitae Key Botanical State Park. In addition, recent monitoring documented many nesting cormorants and great egrets, including great egret hatchlings. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Channel Key Banks:* This is a proposed new idle speed no wake WMA, which has been modified from the 2019 DEIS alternatives. The proposed rule would include a much smaller and targeted zone in the area with the greatest amount of prop scarring. This WMA is intended to protect seagrass and hardbottom habitat that supports a diverse assemblage of corals, sponges, macroalgae, seagrass, and many juvenile fish species prior to their movement to the coral reefs. This habitat type is not currently well represented in the existing FKNMS marine zones.
- *Red Bay Bank:* This is a proposed new idle speed no wake WMA, which has been modified from the 2019 DEIS alternatives. The proposed rule would include a much smaller and targeted zone in the area with the greatest amount of prop scarring. This WMA is intended to protect seagrass and hardbottom habitat that supports a diverse assemblage of corals, sponges, macroalgae, seagrass, and many juvenile fish species prior to their movement to the coral reefs. These habitat types are not currently well represented in the existing FKNMS marine zones.
- *Marathon Oceanside Shoreline:* This is a proposed new idle speed no wake WMA to decrease disturbance to nearshore seagrass and hardbottom habitats from vessel impacts in areas with prop scarring. The 2019 DEIS preferred alternative (Alternative 3) included this zone as a no motor area and based on public comment, the WMA in this proposed rule would be idle speed no wake with exceptions for established channels.
- *East Bahia Honda Key:* This is a proposed new no motor WMA intended

to decrease disturbance to nesting and foraging birds. Shallow seagrass flats in this area exhibit prop scarring. The WMA in this proposed rule is the same as the 2019 DEIS Alternative 2.

- *West Bahia Honda Key:* This is a proposed new no motor WMA intended to decrease disturbance to nesting and foraging birds. The WMA in this proposed rule is the same as the 2019 DEIS Alternative 2.
- *Little Pine Key Mangrove:* This is a proposed new no entry WMA intended to decrease disturbance to nesting and roosting birds including magnificent frigatebirds, reddish egrets, and tricolored and great white herons. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Water Key Mangroves:* This is a proposed new no entry WMA intended to decrease disturbance to nesting, wading, and foraging birds and to decrease impacts to habitats for shallow water foraging shorebirds. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Howe Key Mangrove:* This is a proposed new no entry WMA intended to decrease disturbance to nesting birds including great white heron, great blue heron and reddish egret. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Torch Key Mangroves:* This is a proposed new no entry WMA intended to decrease disturbance to nesting and roosting habitat for various birds including white-crowned pigeon and reddish egret, and is shallow water foraging habitat for wading and shorebirds. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Crane Key:* This is a proposed new no entry WMA intended to decrease disturbance to nesting and roosting birds including magnificent frigatebirds and great white heron. Crane Key has the highest post-Hurricane Irma annual count of nesting great white herons in the backcountry, and serves as an important island for other nesting, roosting and foraging birds. Additional protections would reduce flushing of these birds from their nests and roosting sites. Shallow seagrass flats exhibit prop scarring. The WMA in this proposed rule is the same as the 2019 DEIS preferred alternative (Alternative 3).
- *Northeast Tarpon Belly Keys:* This is a proposed new no motor WMA intended to decrease disturbance to nesting and roosting sites for reddish egrets and other wading birds. The WMA in this proposed rule is the same as the 2019 DEIS Alternative 2.
- *Happy Jack Key:* This is a proposed new no entry WMA intended to decrease disturbance to wading bird foraging habitat and nesting reddish egret and great white heron. Happy Jack Key supports high numbers of nesting and roosting reddish egrets, while the surrounding shallows provide pristine foraging habitat. The WMA in this proposed rule includes a smaller and different island to the southeast of the island and area included in the 2019 DEIS preferred alternative (Alternative 3).
- *Western Dry Rocks:* This is a proposed new WMA that would mirror newly established *FWC regulations* [13] (February 2021) with a seasonal no fishing prohibition from April 1 to July 31, and include a no anchor regulation during this same seasonal time period.

NOAA received hundreds of public comments related to including Western Dry Rocks as a sanctuary marine zone. The 2019 DEIS included options for a 796 acre (1.2 square mile) trolling only Wildlife Management Area (Alternatives 2 and 3) and a transit only Conservation Area (Alternative 4). Public comments both strongly supported and opposed these proposals. Comments in support noted the need to protect this site due to its importance as a multi-fish spawning aggregation site; comments included support for both a year-round closure and seasonal closure during the peak spawning time, particularly for permit species, which are not managed through an existing fishery management plan. Public comments in opposition noted the importance of this site for charter fishing activity, questioned the definition of trolling, and noted that any action at Western Dry Rocks should be taken through fishery management plan action and referenced recent action taken to modify bag and size limits for mutton snapper, one of several fish that spawn at this site. Agency comments, specifically those from FWC, did not support NOAA taking any action at Western Dry Rocks and recommended it be removed from further consideration. FWC commented that fisheries management in State waters at this location should remain under the sole authority of FWC, and further noted that FWC would consider rulemaking for this area. Since submitting their comments on the 2019 DEIS, FWC proposed various options for protecting fish spawning aggregations at Western Dry Rocks, and at their February 2021 FWC Commission meeting, adopted a seasonal closure that prohibits fishing from April 1 through July 31 annually in an area that mostly encompasses NOAA's 2019 DEIS proposal, but is slightly smaller (0.98 square miles). As a result, and because it is customary for federal and state agencies to craft complementary regulations to ensure consistency and transparency and improve enforcement, NOAA also proposes including a seasonal no fishing WMA at Western Dry Rocks. Further, FWC has requested that anchoring by vessels be prohibited during the seasonal fishing closure, so NOAA is proposing to establish no anchoring regulations at the same time of year as the no fishing regulations. NOAA would work cooperatively with FWC to place marker buoys to delineate the Western Dry Rocks WMA.

- *Barracuda Keys:* This is a proposed new idle speed no wake WMA intended to decrease disturbance to important shallow water habitats and the large numbers of resting shorebirds that use the shallow seagrass flats. Shallow flats exhibit prop scarring. Informed by public comment, the proposed rule modifies the 2019 DEIS preferred alternative (Alternative 3), which included this area as a no motor zone. In the 2019 DEIS this WMA was referred to as Marvin Barracuda Key Flat.
- *Archer Key:* This is a proposed new no anchor WMA intended to decrease disturbance to nesting and roosting birds and protect seagrass habitat and associated species, which exhibit prop scarring. The WMA in this proposed rule is the same as the 2019 DEIS Alternative 2.
- *Ballast and Man Keys Flats:* This is a proposed new idle speed no wake WMA intended to protect important hardbottom and seagrass habitat, which exhibit prop scarring. Additional regulation in this area would also reduce user conflict between flats fishers and recreational boaters. The WMA in this proposed rule is modified from the 2019 DEIS preferred alternative (Alternative 3), which proposed no anchor in an area slightly to the north. The shift in location and regulation is based on public comment, user feedback and prioritizing protection in the area of greatest prop scarring.
- *Marquesas Turtle:* This is a proposed new idle speed no wake zone to decrease disturbance to ESA-listed green sea turtles on a rare, internationally-important foraging ground. NOAA proposes including a smaller area than was proposed in the 2019 DEIS preferred alternative (Alternative 3). The WMA boundary included in this proposed rule removes the southern portion of the area that was

[13] *https://www.flrules.org/gateway/ruleNo.asp?id=68B-6.004.*

included in the DEIS proposal due to public and agency comment regarding needing this area for safe transit to the Marquesas Keys. The WMA in this proposed rule also captures the area of greatest habitat variability and highest numbers of turtle sightings.

• *Pulley Ridge:* This area is proposed for overall sanctuary boundary expansion where sanctuary-wide regulations would apply. Additional regulations would prohibit anchoring by all vessels. This proposed new WMA would protect the deepest known photosynthetic coral reef system off the coast of the continental United States with demonstrated connectivity to the Florida Keys. These nationally-significant mesophotic reef ecosystems are threatened by anchor damage. This zone overlaps with an existing Gulf of Mexico Fishery Management Council Habitat Area of Particular Concern (HAPC), which prohibits anchoring by fishing vessels and bottom tending fishing gear, with an exception for long-line gear in a portion of the HAPC. The proposed no anchor regulations for all vessels would complement the existing HAPC anchoring restrictions that only apply to fishing vessels. The WMA in this proposed rule is the same as the 2019 DEIS Alternative 4 proposal. In addition, as noted in part III. section 1. *Sanctuary Boundary,* NOAA is also pursuing International Maritime Organization adoption of a no anchoring area designation for Pulley Ridge.

iv. Existing DEIS Proposed WMAs That Would Be Eliminated

Several new WMAs were proposed in the 2019 DEIS alternatives, which, for various reasons, including extensive public and agency comments, are not included in NOAA's proposed rule. One existing WMA, Little Crane Key, which was proposed to be eliminated in the DEIS, is also proposed to be eliminated in NOAA's proposed rule. Another existing WMA, Tidal Flat South of Marvin Key, was not proposed for elimination in the DEIS alternatives but is proposed to be eliminated in NOAA's proposed rule. Table 2 provides a summary of the eight WMAs that were proposed in the DEIS and are not being included in NOAA's proposed rule and the two existing WMAs that would also be eliminated.

TABLE 2—SUMMARY OF EXISTING OR DEIS PROPOSED WMAS NOT INCLUDED IN THE PROPOSED RULE

Zone name	Purpose and intent	Reason for not carrying forward
Alligator Reef	Protect a significant amount of ESA-listed coral by providing additional protections to an existing fishery management plan area closed to lobster trap gear.	NOAA determined that due to FWC and FMC interest in evaluating all lobster trap exclusion zones, NOAA will await this review prior to including this area as a sanctuary marine zone.
Key Lois Loggerhead Key	Decrease impacts to shallow water habitat adjacent to Bow Channel. Many of the shallow seagrass flats in this area exhibit light-to-moderate prop scarring. Decrease disturbance to migrating tarpon that use this basin from February through June. Decrease user conflict between flats fishermen and transiting boaters.	NOAA determined that the burden to local homeowners outweighed the resource protection goals and that the original intent to separate conflicting users (boating and fishing) may not be needed.
Western Sambo Shoreline	Decrease disturbance in the nearshore foraging and nursery habitat for various fish species. Provide stricter protections to meet the advisory council goal to protect large, contiguous, diverse and interconnected habitats, including for fish moving inshore to offshore through their life cycle.	NOAA determined that current zone regulations of Western Sambo Conservation Area are sufficient for the resource protection goals.
Demolition Key	Decrease disturbance to nesting and roosting birds, including great white heron and magnificent frigatebirds.	NOAA determined that the impacts to uses including general transit, fishing, and military testing and training outweighed the resource protection goals of this proposed zone.
Little Crane Key	Decrease disturbance to nesting and roosting birds	NOAA determined the existing zone is no longer needed as the area shifted during Hurricane Wilma and no longer supports the bird species it was designed to protect.
Tidal Flat South of Marvin Key.	Decrease disturbance to nesting and foraging shorebirds that use the shallow seagrass flats.	NOAA determined the existing zone is no longer needed as the nearby proposed Marvin Barracuda Keys WMA would be more effective for decreasing bird disturbance in this general area.
Marvin Key	Decrease disturbance to nesting and foraging shorebirds that use the shallow seagrass flats.	NOAA determined that the impacts to access to popular recreation sites outweighed the resource protection benefits of this zone and the nearby proposed Marvin Barracuda Keys WMA would be more effective for decreasing bird disturbance in this general area.
East Barracouta Key	Decrease disturbance to ESA-listed sea turtles and protect important hardbottom habitat. Shallow seagrass flats in the area exhibit light prop scarring.	NOAA determined resource conditions are not severe enough to warrant restricting access.
Boca Grande Woman Key Flat.	Decrease disturbance to nesting and roosting birds and shallow water habitats including seagrass and hardbottom. Limit user conflict in a high traffic area.	NOAA determined that the resource protection needs of this site, at this time, are not sufficient to restrict access. USFWS specifically noted that if this shallow flat were used by nesting birds in the future, they would work with NOAA on options to use the proposed *Temporary Regulation for Emergency and Adaptive Management.*

TABLE 2—SUMMARY OF EXISTING OR DEIS PROPOSED WMAS NOT INCLUDED IN THE PROPOSED RULE—Continued

Zone name	Purpose and intent	Reason for not carrying forward
Wilma Key	Decrease disturbance to nesting and roosting birds. Decrease disturbance to ESA-listed sea turtle nesting beaches that may be impacted by high concentrations of visitors. Shallow seagrass flats around the island exhibit light-to-moderate prop scarring.	NOAA determined that the resource protection needs of this site, at this time, are not sufficient to restrict access. USFWS noted interest in working with NOAA to potentially use the proposed *Temporary Regulation for Emergency and Adaptive Management* if bird nesting occurs here in the future.

v. Shoreline Slow Speed

In addition, NOAA has decided not to include a shoreline slow speed regulation in this proposed rule. The existing regulation requiring idle speed no wake operation within 100 yards of residential shorelines would remain in effect and not be modified. NOAA's deliberation on this draft regulation considered the value that additional shoreline protections could provide in light of potential impacts from climate change and sea level rise and therefore NOAA does not rule out potential future, additional shoreline vessel speed regulations.

Public comments were generally supportive of a proposed shoreline slow speed regulation because it would potentially decrease the number of individual Wildlife Management Areas (where speed is regulated), reduce the need for marker buoys and signage, and provide additional protections for nearshore habitats and species. However, several comments noted concern regarding the feasibility of enforcing a shoreline slow speed regulation and the number of exceptions that may be required for channels, passes, and ability to access deeper areas nearshore. Agency comments both supported this proposed regulation and noted similar concerns to those included in public comments.

4. Additional Marine Zone Regulations

a. Motorized Personal Watercraft

NOAA proposes including regulatory changes to allow motorized personal watercraft (PWC) operation in a small portion of the Key West National Wildlife Refuge, west of the Key West main ship channel around marker G13, where PWC operation is otherwise prohibited.

The 2019 DEIS included this proposal in Alternatives, 2, 3, and 4. Public comments on the operation of PWCs in the sanctuary ranged from banning PWCs throughout the sanctuary to opposing any restrictions for where PWCs could operate. Public comments also included more specific recommendations, such as allowing PWC use in areas parallel to the entire length of the Key West ship channel to further public safety, and that the State of Florida should take the lead for regulating PWCs under Chapter 327.60 Florida Statutes, which states that personal watercraft must be regulated as any other vessel on waters of the State. USFWS comments supported allowing PWC operation in this small section with no other changes to PWC operations within the National Wildlife Refuges.

b. Tortugas North Access Permits

NOAA proposes streamlining the permit application process for persons wishing to enter the Tortugas North Conservation Area. The current regulation requires that access permits must be requested at least 72 hours but no longer than one month before the date that access is requested. NOAA proposes to remove the current requirement to request access permits no longer than one month before the date of entrance to the area, and remove the requirement to notify FKNMS before entering and upon leaving the area. The requirement to request an access permit at least 72 hours in advance will remain. This permit would also refer to the zone as Tortugas North Conservation Area rather than Ecological Reserve due to the zone type name change.

NOAA received minimal public and agency comments regarding this specific proposal, but those comments received were supportive of it.

c. Catch and Release Fishing by Trolling in Four SPAs

NOAA proposes eliminating the exception allowing catch and release fishing by trolling in four SPAs (Conch Reef, Alligator Reef, Sombrero Key, and Sand Key). NOAA believes that user compliance is greatly reduced and enforcement greatly hindered when exceptions to regulations in specific zones are provided. Over two decades of management experience with marine zones in the sanctuary points to providing zones with consistent and clear regulations.

The 2019 DEIS included this proposal in Alternatives 2, 3, and 4. Public comments included support for additional and consistent protections and opposition for the loss of fishing access in these SPAs. FWC comments noted that state rules at 68B–6, F.A.C. allow catch and release by trolling in Sand Key SPA, which is in State waters. Modification to fishing activities in this area would constitute a fisheries management action under FWC authority, and the FWC was not supportive of access limitations without information to justify that such an action was in response to a specific problem. Considering these comments, NOAA determined that the effects of removing the exception for catch and release fishing at Sand Key SPA, in State waters, would be insignificant given the small size of this zone (0.45 square miles) and because fishermen are able to access multiple reef areas nearby but outside this zone. As noted above, consistent no fishing and no harvest regulations in fully protected SPAs facilitate compliance by all users.

d. Bait Fishing Permits

NOAA proposes eliminating over a three-year period the practice of issuing bait fishing permits of any kind in SPAs in federal waters and the practice of issuing permits to bait fish using cast nets in SPAs in State waters. FKNMS regulations currently prohibit fishing within SPAs, with exceptions for catch and release fishing in four SPAs (see 15 CFR 922.164(d)). However, NOAA has been issuing a very small number of general permits for limited bait fishing in SPAs since the original FKNMS regulations became effective in 1997. Permits issued to date allow the harvest of bait fish from all 18 SPAs using either a hand-thrown cast net (which is the gear used by recreational and charter fishermen) or modified lampara net (which is the gear type used by commercial fishermen in the State's limited endorsement lampara net fishery). NOAA also issues general permits that authorize the use of small hair hooks (*i.e.,* sabiki rig) to remove baitfish from just three of the SPAs in federal waters offshore of Islamorada. All permitted fishermen are required to report their catch inside and outside of the SPAs to FKNMS annually. NOAA's

proposal to eliminate the practice of issuing bait fish permits does not require a change to the regulations and would be implemented via changes to FKNMS's permitting policies. When final FKNMS regulations become effective, existing bait fishing permit holders would have the option to renew their permit annually for three years but NOAA would not issue any bait fishing permits to any new persons. After the third year, NOAA would no longer issue permits for this activity.

Public comments supporting this proposal noted that allowing this activity in SPAs creates an incentive to fish in no-fishing zones more generally and supported consistency of regulations in all SPAs. Public comments opposing this proposal noted that allowing bait fishing in SPAs was part of an original trade-off with fishermen to gain their support for the establishment of SPAs, noting that this agreement should continue to be upheld.

Agency comments from FWC and SAFMC supported phasing out the use of cast nets for bait fishing in SPAs, stating that the use of this gear may cause impacts to coral reef and hardbottom habitats. GMFMC noted that NOAA may want to consider specific gear types that could be allowed and recommended consulting with FWC. More specifically, FWC supported continuing to allow the use of modified lampara nets to commercially harvest baitfish in the SPAs. FWC also noted that even though this proposal does not impact the ability of fishermen to fish for bait outside of SPAs, SPA areas have been identified as important areas for bait fishing in the Keys. FWC noted that a limited entry lampara net endorsement exists in State waters and therefore recommended that those endorsement holders be allowed to continue to fish within designated SPAs. FWC explained that gear contact with the reef is unlikely and conflict with other user groups is unlikely based on the time of day they fish.

NOAA considered FWC's comments regarding continuing to allow lampara net use in SPAs in federal waters, but believes that allowing only certain gear types increases conflict with other users and importantly, complicates compliance with the existing prohibition against fishing in these areas. This proposed decision is based on over 25 years of management of the network of marine zones within the sanctuary, including a review of catch log data submitted by permit holders over the past five years. These reports indicate that there is a limited number of recreational and commercial fishermen using the permits to catch bait fish, with over half of the permitted fishermen reporting annually they are not using the permit (*i.e.,* not catching baitfish within the SPAs). Those fishermen that do state they are harvesting baitfish within the SPAs report very low catch numbers, leading NOAA to believe that very few users will be adversely affected by this change and that most fishermen are already catching baitfish outside of the SPAs. NOAA has also received input from dozens of recreational (cast net) fishermen over the last two decades through log form reporting and other means (*e.g.,* phone calls, emails) noting conflicts with commercial lampara net fishermen when in the SPAs.

NOAA considered all of this input when proposing the change in bait fishing permits in this proposed rule. Specifically, in support of the comments from FWC summarized above, NOAA would work with state fishery managers to develop a process for fishermen currently managed through the State's limited entry endorsement program to use lampara nets in existing SPAs in State waters.

e. Restricted Access in Select Sanctuary Preservation Areas

NOAA's proposed rule does not include a regulation to restrict commercial operator access in three SPAs (Carysfort Reef, Sombrero Key, and Sand Key), as proposed in Alternatives 3 and 4 in the DEIS. In these regulatory alternatives, NOAA would have only allowed charter operator access to these areas to dive/snorkel businesses that participate in the Blue Star program. The Blue Star program is an existing program that recognizes tour operators who are committed to promoting responsible and sustainable diving and snorkeling practices to reduce the impact of these activities on ecosystems in the Florida Keys, participate in training for their staff, and conduct conservation activities. NOAA received many public comments specific to these alternatives to limit access, with the majority of comments opposing. While not supporting this specific proposal, comments also noted concern about increasing numbers and intensity of use and supported considering ways to manage numbers of users in the sanctuary including in coral reef and backcountry areas. In addition, many commenters acknowledged that other resource protection entities (U.S. Forest Service, National Park Service, international marine parks, among others) manage use, access, and overall numbers of users through various regulatory and non-regulatory mechanisms, and some commenters provided ideas and recommendations for consideration, which NOAA will evaluate as additional management plan activities are considered. In response to these comments, the revised draft management plan includes additional information about NOAA's intent to better assess sanctuary carrying capacity, evaluate regulatory and non-regulatory tools to manage use and use numbers in the sanctuary, and consider how existing regulations and management activities can be more strategically applied to better manage use and impacts from use (*e.g.,* boater education, mooring buoys, proposed no anchor regulation in SPAs, etc.). With this additional evaluation and further public and agency engagement, NOAA may consider regulatory action to manage numbers of users and impacts of this use on sanctuary resources in the future.

5. Sanctuary Management Plan

NOAA has revised the draft management plan that was published along with the 2019 DEIS. While NOAA received very few direct comments on the specific content in that draft plan, public comments did highlight several management issues of interest including: (1) water quality, (2) enforcement, (3) education, (4) mooring and marker buoys and signage, (5) better understanding of carrying capacity and managing high and conflicting uses, (6) habitat restoration, (7) artificial habitats and artificial reefs, and (8) management effectiveness monitoring and the ability to be more flexible in responding to outcomes of such monitoring.

The revised draft management plan, which includes the non-regulatory actions, complements and further supports this notice of proposed rulemaking. The revised draft management plan actions are largely focused on understanding and improving the condition of sanctuary resources through reducing threats and addressing emerging issues. Actions also include the need to engage with and strengthen partnerships to address issues and impacts that occur outside the sanctuary boundary and fall within the jurisdiction or authority of partner federal or state agencies. For example, a priority is strengthening the NOAA partnership with the South Florida Ecosystem Restoration Task Force to ensure Florida Keys water quality, habitat, living marine resource conditions, and community interests are considered and integrated into regional restoration and management plans.

NOAA has revised the draft management plan to provide more detail on these and other topics identified in this Notice. A copy of this revised draft management plan is available at the address and website listed in the **ADDRESSES** section of this proposed rule.

IV. Summary of Proposed Changes to the Sanctuary Terms of Designation

Section 304(a)(4) of the NMSA requires that the terms of designation for national marine sanctuaries include: (1) the geographic area of the sanctuary; (2) the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or aesthetic value; and (3) the types of activities subject to regulation by NOAA to protect those characteristics. This section also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made, including public notice and comment, and preparation of an EIS. Terms of designation include the geographic area of the sanctuary, characteristics of the area that give it value, and the types of activities that will be subject to regulation. Therefore, through the proposed rule, the revised FKNMS terms of designation would:

1. Modify Article I (''Designation and Effect'') to include the expanded sanctuary boundary;
2. Modify Article II (''Description of the Area'') by changing the geographic description and size of the sanctuary;
3. Modify Article III (''Characteristics of the Area That Give it Particular Value'') by updating the size of the sanctuary and the description of the special resources contained within it;
4. Modify Article IV (''Scope of Regulation'') by simplifying descriptions of the categories of activities that may be subject to regulation. As originally drafted, the Terms of Designation contain a level of detail similar to, if not the same, as the regulations. Instead, NOAA proposes to provide broad categories of activities to be more consistent with the legislative intent of section 304(a)(4) of the NMSA to merely identify the ''types of activities,'' and rely instead on the regulations themselves to provide the specific regulatory details. Otherwise, the ''Scope of Regulation'' section would be duplicative of the regulations and serve no purpose. By simplifying the activity descriptions, NOAA is not broadening in any way the scope of the regulations and is not adding any new or different activities to be subject to regulation. The regulations themselves contain the operative language and only the regulations are enforceable;
5. Modify Article V (''Effect on Leases, Permits, Licenses, and Rights'') by modifying language to be consistent with section 304(c) of the NMSA related to any valid lease, permit, license, approval, or other authorization or right in existence prior to the effective date of the revised terms of designation, and to cite the correct section of Office of National Marine Sanctuaries regulations for certifying such valid rights;
6. Modify the ''Florida Keys National Marine Sanctuary Boundary Coordinates'' to include the expanded sanctuary boundary.

For the proposed modified FKNMS Designation Document, please refer to appendix J.

V. Classification

1. National Marine Sanctuaries Act

Section 301(b) of the NMSA (16 U.S.C. 1431) provides authority for comprehensive and coordinated conservation and management of national marine sanctuaries in coordination with other resource management authorities. Section 304(a)(4) of the NMSA (16 U.S.C. 1434) requires that the procedures specified in Section 304 for designating a national marine sanctuary be followed for modifying any terms of designation. This action is revising the terms of designation (*e.g.,* expanding the boundary) for FKNMS. Section 304(a)(5) of the NMSA also requires that NOAA consult with the appropriate federal fishery management council on any action proposing to regulate fishing in federal waters. Consultation with the SAFMC and GMFMC is discussed above in part II, *FKNMS 2019 DEIS—The Restoration Blueprint Process,* section 3c, *Agency Consultations and Other Coordination.* Pursuant to Section 304(a)(1) of the NMSA, Congress and the Governor of Florida will also have the opportunity to review this proposed action.

2. National Environmental Policy Act

In accordance with Section 304(a)(2) of the NMSA (16 U.S.C. 1434(a)(2)), and the provisions of NEPA (42 U.S.C. 4321–4370), NOAA has prepared a DEIS to evaluate the impacts of this action. For more information on the DEIS and steps leading to the action, please refer above to part II, *FKNMS 2019 DEIS—The Restoration Blueprint Process,* section 2, *Draft Environmental Impact Statement (DEIS).* The DEIS contains a statement of the purpose and need for the project, description of proposed alternatives, including the no action alternative, description of the affected environment, and evaluation and comparison of environmental consequences including cumulative impacts.

NOAA has determined that a supplemental NEPA analysis is not required for this proposed rule because the DEIS presented the public with a comprehensive analysis of the spectrum of environmental impacts among several alternative scenarios from which this proposed rule was derived. Any changes reflected in the proposed action are insubstantial in that they do not differ from the impacts already analyzed in the DEIS. The specific combination of elements from the alternatives analyzed in the DEIS and reflected in the proposed rulemaking will not have any synergistic or cumulative impacts not already analyzed in the DEIS. Based on the evaluation of the alternatives, NOAA determined that no significant adverse impacts to resources and the human environment are expected if any of the alternatives are adopted, and this conclusion applies to this proposed action. Copies of the DEIS are available at the address and website listed in the **ADDRESSES** section of this proposed rule. NOAA will analyze the comments that have been previously received on the DEIS when the final rule and FEIS are prepared and issued. NOAA also invites the public to provide additional comments on the DEIS based on the proposed rule as presented herein.

3. Executive Order 12866: Regulatory Impact

OMB has determined this rule is significant as that term is defined under Executive Order 12866. NOAA anticipates the associated costs with this proposed rule will be *de minimis,* as explained more fully in the Regulatory Flexibility Analysis, a copy of which is available at the address and website listed in the **ADDRESSES** section of this proposed rule.

4. Executive Order 13132: Federalism Assessment

NOAA has concluded this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132. This proposed rule will not have a substantial or direct effect on states or local governments. NOAA has coordinated closely with state partners throughout the development of this proposed rule and, where applicable and practicable, aligns with and/or defers to existing state regulations for proposals within State waters of the sanctuary. NOAA has aimed for consistent regulations throughout

sanctuary waters including those within state and federal jurisdiction.

5. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 reaffirms the Federal government's commitment to tribal sovereignty, self-determination, and self-government. Its purpose is to ensure that all Executive departments and agencies consult with Indian tribes and respect tribal sovereignty as they develop policies on issues that impact Indian communities. This proposed action is not anticipated to have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibility between the Federal government and Indian tribes. The Seminole Tribe of Florida Tribal Historic Preservation Office provided comments on the DEIS specific to the *Programmatic Agreement under Section 106 of the National Historic Preservation Act regarding Florida Keys National Marine Sanctuary Operations, Management, and Permitting,* and consultation related to archaeological research permits.

6. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires Federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a notice of proposed rulemaking, unless the agency can certify, pursuant to 5 U.S.C. 605(b), that the action will not have a significant economic impact on a substantial number of small entities. NOAA has prepared a Socioeconomic Report, in which Chapter 6 serves as the factual basis for certification. A copy of this report is available as a supporting document to this rule (see **ADDRESSES**). Chapter 6 of the report, Economic Effects on Small Entities, is also included here.

This section evaluates the quantitative potential effects of marine zone boundary changes on small entities. There are three primary industries considered in this section; commercial fishing, recreational for-hire fishing and dive/snorkeling for-hire operations. Based upon quantitative and qualitative analysis, the quantitative assessment provided here is an overestimate of the negative potential impacts of the proposed rule. We conclude that the economic impacts are expected to be much smaller because, based on other studies of marine protected areas, fishers are anticipated to be able to relocate their effort to other areas or other species.

The RFA requires agencies to consider the effects of rules on small entities. The RFA does not require the agency to necessarily minimize a rule's impact on small entities. There are no decision criteria in the RFA. Instead, the goal of the RFA is to inform the agency and public of expected economic effects of the proposed rule contained within the regulatory action and to ensure the agency considers alternatives that minimize the expected economic effects on small entities while meeting the goals and objectives of the applicable statutes.

This analysis supports NOAA's decision to certify that the proposed rule will not have a significant economic impact on a substantial number of entities, and, therefore, no further analysis is needed under the RFA (US EEOC, 2021). The analysis provided here supports NOAA's decision to certify that there will not be a significant economic impact on a substantial number of entities.

Small entities are defined by the Small Business Administration (SBA). The definition of the relevant small businesses are presented here and are from the most recent size standards published by the SBA in 2019 (US SBA, 2019). Size standards are based upon the average annual receipts (all revenue) or the average employment of a firm. The commercial size standards for finfish fishing (NAICS code—114111) is $22.0 million, shellfish fishing (NAICS code—114112) is $6.0 million and other marine fishing (NAICS code—114119) is $8.0 million. Scenic and sightseeing transportation, water-based businesses such as for-hire recreational fishing operations, and dive/snorkeling for-hire operations (NAICS code—487210) have size standards of $8.0 million.

a. Commercial Fishing

All data presented in this chapter uses the five-year average (2015–2019). The data was provided by FWC. The data set requested by ONMS only includes data for landings that occur within the statistical areas and subareas described in Chapter 4 of the Socioeconomic Report. It is possible that some of the vessels with landings in the evaluated statistical areas have additional landings outside of the data requested from the State. This means that some of the vessels evaluated may not be classified as small businesses as defined by the SBA if their landings within Monroe County-associated statistical areas in addition to those outside Monroe County surpass the SBA size standards. Additionally, complete ownership and cost data for businesses and vessels that participate in commercial fishing and other industries is not available.

Consequently, NOAA is not able to determine affiliations between multiple vessels and businesses. As a result, NOAA assumes that each of the vessels are independently owned by a single business. Either one of these two factors alone could result in an overestimate of the actual number of small businesses directly impacted by the proposed regulatory action. Additionally, the spatial data provided is for the statistical subareas and data are not available related to the specific catch or number of businesses that operate within the proposed marine zones. In this regard, there is a spatial mismatch between the data available and the size of the marine zones, which are likely to affect commercial and recreational activity. Chapter 4 of the Socioeconomic Report documents the assumptions made with regards to how affects to these specific industries are estimated.

i. Description and Estimate of the Number of Small Entities to Which the Proposed Action Would Apply

NOAA has calculated the potential number of vessels that may be impacted by this proposed rule. If a vessel operates in a statistical subarea that has a proposed zone or zone change that would impact commercial fishing, these vessels were considered. Unless otherwise stated, the supporting Socioeconomic Report (see Table 4 in Chapter 2) shows the statistical areas associated with the Gulf of Mexico or South Atlantic regions and which statistical areas include proposed rule zone changes that would restrict commercial fishing. In total, there are six statistical areas that have zone changes within habitat that the species analyzed are likely to be associated with. Impacts are considered by fish groups below. It is possible, and likely, that vessels may target multiple species and thus would be accounted for in several of the individual fish groupings provided below.

Reef Fish

The reef fish analyzed here include red grouper, grunts, hogfish (hog snapper), mutton snapper, grey (mangrove) snapper, lane snapper, black grouper (carberita), gag grouper, and yellowtail snapper. Please see Chapter 4 of the Socioeconomic Report for a more detailed explanation of why the analysis of reef fish focused on these nine specific reef associated species. The analysis for reef associated species is provided for the Gulf of Mexico and South Atlantic fisheries. The five-year

average (2015–2019) of the number of vessels that reported at least $1 or more of harvest revenue for reef associated species in statistical areas affected by the proposed rule are presented here. In the Gulf of Mexico region, there was an annual average of 39 vessels. For the South Atlantic fishery there was an annual average of 231 vessels. (The estimates of vessels should not be summed to get the total number of vessels, as some vessels may fish in both regions and this would result in double counting.) Further, the maximum annual average revenue (2011–2015) of vessels operating within the Gulf of Mexico Reef Fish Fishery is $4.9 million (GMFMC, 2017). Within the South Atlantic Snapper Grouper Fishery, the maximum average annual revenue (2012–2016) is $1.7 million (SAFMC, 2019). The SBA commercial size standard for finfish is $22.0 million, all vessels that have reported $1 or more of reef fish harvest revenue do not surpass this threshold. Consequently, all the vessels potentially affected by this regulation are considered small entities.

Shrimp

Commercial vessels that fished pink, brown, white, royal red, rock, and ''other'' shrimp species (as reported in FWC trip tickets) were considered in this analysis. The number of vessels engaged in the shrimp fishery was estimated for the Gulf of Mexico and South Atlantic regions. Statistical subarea 2.8 (Federal Waters Gulf of Mexico) is the only statistical subarea in which the shrimp fishery may be affected by the proposed rule; thus, no South Atlantic region vessels engaged in the shrimp fishery would be affected. From 2015–2019, an average of 108 vessels per year reported at least $1 or more of harvest revenue in statistical subarea 2.8. The SBA commercial size standard for shell fishing is $6.0 million. From 2011–2014, the maximum annual average revenue for a single vessel harvesting shrimp in the Gulf of Mexico was $2.0 million (GMFMC, 2017b). Consequently, all vessels potentially affected by the proposed rule were considered small entities.

Lobster

The five-year average of the number of vessels that reported at least $1 or more of harvest revenue for lobster in statistical areas affected by the proposed rule are presented here. The analysis for lobster is not differentiated by South Atlantic and Gulf of Mexico regions and 521 vessels on average (2015–2019) were identified as harvesting $1 or more in lobster revenue. The maximum annual average revenue (2012–2016) from all species reported by a single vessel that harvested lobster was $2.0 million (GMFMC, 2018). The SBA commercial size standard for shell fishing is $6.0 million, all vessels that have $1 or more of lobster harvest revenue do not surpass this threshold. Consequently, the vessels potentially affected by this proposed rule are considered small entities.

Stone Crab

The five-year average of the number of vessels that reported at least $1 or more of harvest revenue for stone crab in statistical subareas affected by the proposed rule are presented here. The analysis for stone crab is not differentiated by region and only considered harvesters in the State of Florida. An annual average of 282 vessels were identified as harvesting $1 or more in stone crab revenue within the statistical subareas where there are proposed zone changes. The SBA commercial size standard for shell fishing is $6.0 million, all vessels that have $1 or more of stone crab harvest revenue do not surpass this threshold. Consequently, the vessels affected by this proposed rule are considered small entities.

ii. Significance of Economic Effects on Small Entities: Reef Fish Substantial Number Criterion

The proposed rule is likely to impact those that fish within the statistical areas affected by the proposed rule zone changes. On average (2011–2015), there were 585 vessels that landed at least one pound within the Gulf of Mexico Reef Fish Fishery (both Individual Fishing Quota (IFQ) and non-IFQ species) managed under the Gulf reef fish fishery management plan (GMFMC, 2017). The maximum average annual gross revenue earned by a single vessel was approximately $4.9 million (GMFMC, 2017). There is an average of 39 vessels that were identified (annually from 2015–2019) that may be affected by the proposed rule within the Gulf of Mexico.

The number of vessels that used their commercial permits annually for harvesting purposes on average between 2012 and 2016 was 584 vessels in the South Atlantic Snapper Grouper Fishery (SAFMC, 2019). In the South Atlantic, the maximum average annual gross revenue from 2012–2016 for a single vessel within the snapper grouper fishery was about $1.7 million (SAFMC, 2019 F–3). Within the South Atlantic region, an average of 231 vessels were identified (annually from 2015–2019) that used the statistical areas likely to be affected by the proposed rule. Based upon the maximum average gross revenue all these commercial reef fishing businesses are believed to be small entities. Consequently, this action would affect a substantial number of small entities within the reef fishery in the South Atlantic region (39.6 percent), but not the Gulf of Mexico (3.8 percent).

Significant Economic Impacts

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

The maximum potential average annual loss of harvest revenue across all vessels within the South Atlantic Snapper Grouper Fishery is estimated to be $19,900 and the estimated maximum potential loss within the Gulf of Mexico Reef Fish Fishery is roughly $1,400 for the reef species analyzed. (The above estimates are totals across the fisheries and not per vessel maximum potential losses.) Although profit loss is not analyzed here, the loss in profit would be smaller than the loss of harvest revenue. The loss of profit considers the avoided costs of not spending the time and effort to catch the fish, where the harvest revenue does not. It is unknown how this loss would be distributed across individual vessels. However, the areas where fishing is prohibited are a small fraction of the overall sanctuary. The targeted zones, of which 95 percent are less than 5 square kilometers and 90 percent are less than 1 square kilometer, are spread throughout the sanctuary. Consistent with previous studies that analyze the impact of marine zone changes, it is likely that fishers would not experience the maximum potential loss and would be able to substitute places within the proposed zones for areas just outside or elsewhere (CDFG, 2008, Hackett et al., 2017, Jeffrey, et al., 2012, Murray & Hee, 2019, and PISCO, 2013). Further, each spatial zone is small and it is likely that commercial harvesters will, in the long-run, find replacement areas and/or benefit from spillover from improvements to reefs and fish communities within closed areas. Because of the above information, a significant reduction in profits for a substantial number of small entities is not expected from the proposed rule to these reef fish fisheries.

iii. Significance of Economic Effects on Small Entities: Lobster Substantial Number Criterion

On average (2012–2016), there were 770 commercial fishing businesses with recorded landings of spiny lobster in the State of Florida (GMFMC, 2018). During this time, these businesses earned an average annual revenue of approximately $84,000 ($2017) and

spiny lobster accounted for 67 percent of revenue (GMFMC, 2018). The maximum average annual revenue from all species reported by a single business that harvested spiny lobster from 2012 to 2016 was about $2.0 million (GMFMC, 2018). There are 521 vessels that were identified on average between 2015–2019 that may be affected by the proposed rule. Since these commercial fishing businesses are believed to be small entities, it is assumed that this proposed rule would affect a substantial number of small entities.

Significant Economic Impacts

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

The maximum potential total loss of lobster harvest revenue per year (for the 2015–2019 average) was estimated to be $966,000. The average harvest revenue per year in the Monroe County statistical areas was roughly $42.0 million. This represents a maximum potential loss of 2.3 percent of harvest revenue when compared to the harvest revenue in Monroe County statistical areas. If this potential loss of harvest revenue is evenly distributed across the 521 vessels, the average annual loss per vessel would be $1,900. Although profit loss is not analyzed here, the loss in profit would be smaller than the loss of harvest revenue. The loss of profit considers the avoided costs of not spending effort (time and money) to catch the fish, where the harvest revenue does not. Further, as stated earlier, most targeted zones are small, and it is unlikely that the maximum potential loss would occur. A significant reduction in profits for a substantial number of small entities is not expected from the proposed rule in the lobster fishery.

iv. Significance of Economic Effects on Small Entities: Shrimp Substantial Number Criterion

On average (2011–2014), there were 1,140 vessels with valid permits that actively fished (had landings) in the Gulf of Mexico Shrimp Fishery. From 2011–2014 the average annual gross revenue was about $413,900 for vessels with a shrimp moratorium permit (GMFMC, 2019). There are 108 vessels on average (from 2015–2019) that may be affected by this proposed rule.

From 2014–2018, the average number of vessels with a valid permit that actively fished (had landings) in the South Atlantic Shrimp Fishery was 262 (SAFMC, 2020). However, in the South Atlantic fishery, zero vessels that reported shrimp landings would be affected by the proposed rule.

These commercial fishing businesses are believed to be small entities. However, it is assumed that this proposed rule would not affect a substantial number of small entities. Less than 10 percent of vessels in the Gulf of Mexico fishery and zero percent of vessels in the South Atlantic fishery would be affected.

Significant Economic Impacts

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

The proposed zone changes in the proposed rule are not expected to affect the South Atlantic shrimp fishery. Within the Gulf of Mexico shrimp fishery, there is a de minimis effect that is expected. Small marginal areas of existing zones that were previously closed to shrimping will be opened, while other areas that have been closed may see minor increases in size due to slight boundary changes. Although the analysis found the resulting estimated benefit of $5 of harvest revenue occurring across the fishery, it is likely that these small boundary changes will have no economic impact or alter the location of effort. Consequently, a significant reduction in profits for a substantial number of small entities is not expected from the proposed rule in the shrimp fishery.

v. Significance of Economic Effects on Small Entities: Stone Crab Substantial Number Criterion

This proposed rule would apply to all commercial fishing businesses that harvest stone crab in sanctuary waters. On average (2015–2019), there were 754 commercial fishing vessels with recorded landings of stone crab in Florida, but on average 282 of these vessels (2015–2019) harvested stone crab in the statistical areas that contain marine zones that are affected by the proposed rule. In the absence of more specific data, it is assumed that a maximum of 282 vessels may be affected within the stone crab fishery. The stone crab commercial fishing vessels are believed to be small entities, it is assumed that this proposed rule would affect a substantial number of small entities.

Significant Economic Impacts

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

The maximum potential loss of harvest revenue across all vessels from the proposed rule is roughly $37,700. Within Monroe County statistical subareas, the average annual total harvest revenue was $20.2 million. The maximum potential loss represents a potential loss of 0.2 percent of harvest revenue from the Monroe County statistical areas. Given the information above, a significant reduction in profits for a substantial number of small entities is not expected from the proposed rule. Although profit loss is not analyzed here, the loss in profit would be smaller than the loss of harvest revenue. The loss of profit considers the avoided costs of not spending effort (time and money) to catch the fish, where the harvest revenue does not.

vi. Summary of Effects to Commercial Fisheries

Table 3 provides a summary of the maximum average harvest revenue and maximum average revenue to the various fisheries provided in this section based upon their total catch. These numbers include total catch, regardless of targeted species. Additionally, the estimated loss of harvest revenue because of the proposed zone changes are provided, along with the loss of revenue on average to each vessel that reported fishing in the affected statistical areas. The last column provides information on the percent of total average annual harvest revenue lost per vessel. Except for the lobster fishery, losses are expected to be less than one percent. The lobster fishery vessels may experience a loss of roughly two percent. The losses are assumed to be evenly distributed across vessels operating in the statistical subareas affected by the proposed zone changes. Data on the costs, harvest revenues, and profits to individual businesses are not available to NOAA.

This estimate of losses is considered the maximum potential loss (MPL). This MPL is not expected to occur. First, the MPL is based on gross revenue, which does not consider a reduction in costs (*e.g.,* fuel, labor) from decreased fishing effort. Further, these losses do not account for substitution of activity outside of the proposed zones or for harvesting of other species.

Most targeted zones are small, and it is unlikely that the maximum potential loss would occur. The Restoration Areas—Nursery, a new type of zone, are all roughly a half square kilometer or less in size. This new zone type results in an additional 2.4 square kilometers being added as transit only areas. Wildlife Management Areas may vary in regulations from idle speed, no wake, no motor, and no entry. In total, 4.0 square kilometers of area will be converted or expanded to Wildlife Management Areas. The smallest zone change proposed is 0.001 square kilometers and

the largest zone change is 0.56 square kilometers. Additionally, as noted above, several studies across multiple geographies have demonstrated that the maximum potential losses do not occur because of the availability of substitute places with the proposed zones for areas just outside or elsewhere (CDFG, 2008, Hackett et al., 2017, Jeffrey, et al., 2012, Marry & Hee, 2019, and PISCO, 2013). Each spatial zone proposed to be added is small and it is likely that commercial harvesters will find substitute areas and benefit from spillover improvements from the proposed closed areas. Within the commercial fishing industry, a significant economic effect is not expected to occur to a substantial number of small businesses from the proposed rule.

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Table 3. Summary of maximum potential effects to small commercial businesses.

	Maximum Annual Average Revenue (2019$) [1]	Average Annual Revenue (2019$) [2]	Number of Vessels in Fishery	Number of Vessels affected [3]	Loss of Harvest Revenue (2019$)	Loss of Harvest Revenue per Affected Vessel (2019$) [4]	Loss of Harvest Revenue as a Percent of Average Annual Revenue per Affected Vessel [5]
Gulf of Mexico reef fish [6]	$4,853,899	$133,047	585	39	$1,443	$37	1.08 percent
South Atlantic snapper/grouper[7]	$1,704,330	$46,869	584	231	$19,826	$86	0.18 percent
Caribbean spiny lobster [8]	$1,960,816	$87,611	770	521	$965,833	$1,854	2.12 percent

Stone Crab [9]	--	$34,435	754	282	$37,714	$134	0.36 percent
Gulf of Mexico shrimp [10]	$1,997,860	$413,857	1,140	108	-$5	$0	0.00 percent
South Atlantic shrimp [11]	$2,647,111	$422,212	262	0	$0	$0	0.00 percent

[1] Revenues reflect all species harvested by a vessel.

[2] Revenues reflect all species harvested by a vessel.

[3] The number of vessels impacted is calculated based upon the average number of vessels that have landed the species (or fish group) listed within the statistical areas that contain proposed zone changes.

[4] Based on a qualitative assessment, we conclude that the maximum potential loss will not occur.

[5] Based on a qualitative assessment, we conclude that the maximum potential loss will not occur.

[6] Maximum annual average harvest revenue is based on data for 2011–2015 (GMFMC, 2017). Average annual harvest revenue is based on data for 2014–2016 (Overstreet et al., 2017; Overstreet et al., 2018a, 2018b).

[7] Maximum annual and annual average harvest revenues are based on data for 2012–2016 (SAFMC, 2019).

[8] Maximum annual and annual average harvest revenues are based on data for 2012–2016 (GMFMC, 2018b).

[9] The number of vessels engaged in this fishery is based on FWC data (S. Brown/FWC, personal communication, September 2, 2021).

[10] Maximum annual and annual average harvest revenues are based on data for 2011–2014 (GMFMC, 2017; GMFMC, 2019).

[11] Maximum annual and annual average harvest revenues are based on data for 2014–2018 (SAFMC, 2020).

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b. Recreational For-Hire Fishing

i. Description and Estimate of the Number of Small Entities to Which the Proposed Action Would Apply

For hire recreational fishing includes both charter and headboats. Charter boats, generally, are fishing vessels that are hired to take up to six anglers on a fishing trip. Typically, the charge is on a per-trip basis. Headboats usually operate on a schedule, and may provide several trips in a single day, taking many different fishing parties at a time. The charge is on a per-person basis. Headboats are usually larger and able to accommodate more anglers than a charter boat. Headboats are defined in Souza & Liese, 2019 as vessels with a passenger capacity of 18 or more individuals or were included in the Southeast Region Headboat Survey, and make up less than ten percent of permit holders (This definition differs from the NMFS definition.) There were 172 headboats identified, of which 51 percent (or 87 vessels) operated within Florida (Souza & Liese, 2019).

The summary provided here is for federally permitted for-hire vessels. In 2017 (from September to October) 1,166 charter vessels were identified to have active permits in the South Atlantic of which 29 percent reported they had not taken a trip within the past year, yielding 828 active charter vessels in the South Atlantic. Within the Gulf of Mexico, 956 charter vessels were identified with 24 percent of vessels reporting they were not active within the last year. Only active vessels would be affected by this proposed rule (Souza & Liese, 2019). There are 828 charter vessels associated with the South Atlantic that may be affected and 727 charter vessels that may be affected within the Gulf of Mexico.

The maximum average annual gross revenue for a headboat in the South Atlantic in 2017 was about $779,100. On average, annual gross revenue for charter vessels is less than half of that for headboats, so it is assumed that the maximum annual gross revenue for charter vessels in the South Atlantic is less than $779,100 (85 FR 43135; July 16, 2020). As of 2018, annual average gross revenue was estimated to be approximately $89,600 for for-hire charter vessels in the Gulf of Mexico (85 FR 43135; July 16, 2020). In 2017, the maximum annual gross revenue for a single headboat in the Gulf of Mexico was about $1.3 million, so it was assumed that the maximum annual gross revenue for a single charter vessel was less than $1.3 million (85 FR 45363; July 28, 2020). The annual average revenue for headboats in the southeast region (*i.e.,* Gulf of Mexico and South Atlantic) was approximately $701,500 (Souza & Liese, 2019). Because all for-hire fishing businesses are considered small entities, it was assumed that the proposed rule would affect a substantial number of small entities.

ii. Significance of Economic Effects on Small Entities

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

The average trip revenue including labor for South Atlantic charters is $554, for Gulf of Mexico charters it is $781 and for the southeast headboat it is $1,815. The average number of passengers are 4.7, 5.5 and 28.2, respectively (Souza & Liese, 2019). However, the proposed zones are small and headboat fishing is not dependent upon specific species being harvested, even if passengers may have a target in mind.

It was estimated that the average annual mean effort of person-trips from charter vessels from 2014–2018 is 117,119 (MRIP, 2020). As a result of the proposed rule, up to 424 days of person activity (or 0.36 percent) may be lost. The trips lost are associated with the South Atlantic, and may result in a total of roughly $50,000 revenue lost on average each year (average trip revenue*number of lost person-days/average number of people per trip in the South Atlantic). The distribution of this loss is not known. It is likely that both charter operations and passengers will adapt to locations outside of the targeted marine zones with the targeted fish or catch other species. A significant reduction in profits for a substantial number of small entities is not expected from the proposed rule.

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Table 4. Summary of maximum potential effects to small for-hire fishing businesses.

	Maximum Revenue (2019$)	Average Revenue (2019$)	Number of Vessels	Number of Vessels affected	Loss of Revenue (2019$)	Loss Revenue per Vessel affected (2019$)	Revenue loss as a Percent of Average Annual Revenue per Affected Vessel
South Atlantic charter vessels [1]	<$779,065	$122,809	828	455	$48,000	$105	0.09 percent
South Atlantic and Gulf of Mexico headboat vessels [2]	$1,300,000	$701,544	144	9.6	$183,409	$19,105	2.72 percent

[1] Maximum revenue estimates assume that maximum revenues for charter vessels are less than those for headboats, since, on average, charter vessels generate less than half the annual gross revenue of headboats (85 FR 45363, July 28, 2020). Average revenue was calculated by multiplying the average number of trips per vessel in 2017 by the average revenue per trip in 2017 (Souza & Liese, 2019).

[2] Maximum revenue is based on estimates for a single year, 2017, in the Gulf of Mexico and South Atlantic regions (Souza & Liese, 2019; 85 FR 43135, July 16, 2020). Average revenue per vessel was calculated by multiplying the average revenue per trip by the average number of trips per vessel for all active headboats in the southeast region in 2017 (Souza & Liese, 2019). Estimates of the number of affected vessels and loss of revenue are based on the spatial analysis described in Chapter 4 of the supporting Socioeconomic Report and represent averages for the years 2014–2018.

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c. Non-Consumptive Recreation Industry

This section considers the number of small businesses operating within the non-consumptive recreation industry and the potential effects on those businesses. Businesses considered within this industry include dive and snorkeling operations, rental equipment operations, wildlife viewing operations and other businesses that either utilize or whose customers utilize sanctuary resources, but do not take resources.

i. Description and Estimate of the Number of Small Entities to Which the Proposed Action Would Apply

There are currently thirty recognized Blue Star dive/snorkeling operators (M. Tumolo, Pers. Comm. 2021). However, this number should be viewed as a minimum and it regularly changes as operations close and other operators sign up for the program. The exact number of dive and snorkeling operations is not known as many of these small businesses do not operate from brick and mortar locations. Further, using Trip Advisor, there were several operations identified for other watersports (Table 5). The table does not reflect the unique number of businesses, as those that provide multiple services may be identified in multiple rows. Utilizing NAICS code 487210 (scenic and sightseeing transportation), the U.S. Census identifies 73 establishments in 2017 in Monroe County, Florida (U.S. Census, 2021b).

TABLE 5—NUMBER OF OPERATIONS BY WATERSPORT

Watersport	Number of operations
Kayak/Canoe	73
Stand-Up Paddle boarding	44
Waterskiing & Jet skiing	28
Parasailing & Paragliding	16
Rafting & Tubing	2
Surfing, Windsurfing & Kitesurfing	10
Speed boating	5

Source: Trip Advisor, 2021.

Based upon site knowledge, these non-consumptive businesses are believed to be small entities, it is assumed that this proposed rule would affect a substantial number of small entities.

ii. Significance of Economic Effects on Small Entities

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

Although some of the proposed marine zone boundary changes will affect activity, the majority of zones that limit activity are small. The Conservation Areas will see an increase of 49.3 square kilometers being converted to transit only areas. Ecological Reserves and Special Use Areas under current regulations will be renamed Conservation Areas under the proposed rule. Further, 46.5 square kilometers are located in the Tortugas South Conservation Area, and are not frequented often by operations because the area only allows transit, this means only 2.8 square kilometers of Conservation Areas are likely to affect non-consumptive recreation businesses. Tortugas North Conservation Area allows activity if the user has an access permit.

The Restoration Areas—Nursery, a new type of zone, are all roughly a half square kilometer or less in size. This new zone type results in an additional 2.4 square kilometers being added as transit only areas. Lastly, Wildlife Management Areas may vary in regulations from idle speed, no wake, no motor, and no entry. In total, 4.0 square kilometers of area will be converted or expanded to Wildlife Management Areas. The smallest zone proposed is 0.001 square kilometers and the largest zone change was 0.56 square kilometers in size.

Estimates on revenue, costs and profitability of non-consumptive business are not available. However, the zone changes being proposed, except for Tortugas South Conservation Area (46.5 sq. km) and Tennessee Reef Conservation Area (1.8 sq. km) are all roughly a half square kilometer or less. Further, these additional protections will help to conserve and sustain resources to ensure the future health of the individual reefs and consequently the larger reef tract to ensure its existence and use of FKNMS to support businesses.

Further, some of the zones and/or expanded areas of the zones are proposed to be no anchor. This may affect small businesses if there is not a sufficient number of mooring buoys available. In addition to the marine zone boundary changes, the proposed sanctuary wide regulation requires vessels 65 feet in length or greater to use a large vessel mooring buoy may affect non-consumptive recreation entities. However, as part of the management action, the site plans to work with the Sanctuary Advisory Council to determine the number and locations where large vessel moorings are needed. The intent of these regulations is primarily to protect sensitive reef habitat by building better infrastructure to support access to these areas. As a result of the information above, a significant reduction in profits for a substantial number of small entities is not expected as a result of the proposed rule.

d. Sanctuary Wide and Marine Zone Regulations

Due to the lack of quantitative data on the number of businesses directly affected by the proposed rule and their levels of revenues, costs, and profits from their activities within the sanctuary, the analysis provided here is qualitative. The types of small entities that may be impacted by the proposed rule include cruise lines, non-consumptive and consumptive recreational charter businesses, and commercial fishing businesses.

In this analysis, NOAA concluded that the impacts to small business entities that were analyzed would be no effect or negligible. No effect means that the proposed action would have no impact to small entities, and negligible means that the proposed rule would cause less than 1 percent change to small businesses and no likely impact to revenue, costs, and profits.

i. Discharge Regulation Exception

The costs to cruise ship businesses are minimal to non-existent since they can discharge once outside sanctuary boundaries. Additionally, cruise ships are limited to the Key West ship channel and spend little time transiting the sanctuary. Any costs associated with the discharge regulations would be minor compared to overall costs of operating a cruise ship.

ii. Temporary Regulation for Emergency and Adaptive Management

Temporary regulations allow the sanctuary to prevent or minimize the destruction of, loss of, or injury to sanctuary resources or the quality of the resources upon which many small businesses (*e.g.,* commercial fishing, consumptive recreational charters, dive operations) rely. Potential costs include temporary displacement of activities from the initiation of the temporary regulation. But in the short-term, substitution or re-location of activities will most likely be available and short-term disruption to activity would be minimal. There would be no long-term costs associated with each temporary regulation, but future temporary regulations would have costs similar to the short-term costs associated with disruption of activity. Although these proposed regulations may result in short-term costs to small entities, they

are expected to provide large net benefits to small entities in the long-term through improved resource conditions. The effect of this proposed rule on small entities would be negligible.

iii. Historical Resources Permitting

The revised historical resources permitting system would eliminate deaccession/transfer permits, thereby removing the ability of individuals to take private possession of historic resources. This will not have any economic effects because the sanctuary has never issued any such permits. This proposed rule would have no effect on small entities.

iv. Fish Feeding

The fish feeding regulation would not apply to feeding for the purpose of harvesting marine species during traditional fishing. There are very few non-consumptive recreational operations in FKNMS that conduct fish feeding activities. There is a lack of data on how fish feeding activities generate revenue for small businesses. Existing eco-tour operators may seek an ONMS permit for fish feeding if they are able to satisfy all general permit application requirements and review criteria, which would serve to mitigate any costs associated with the proposed rule. This proposed rule would have negligible effects on small entities.

v. Grounded and Deserted Vessels, and Harmful Matter

The grounding or desertion of vessels is not essential to the operations of any type of small entity in the sanctuary. Additionally, any costs to small entities to remove derelict and/or abandoned vessels are minimal compared to their liability if the derelict or abandoned vessel damages sanctuary resources or damage assessment cases are brought against those who damage sanctuary resources. The proposed rule would have negligible effects on small entities.

vi. Large Vessel Mooring Buoys

In conjunction with this regulation, NOAA will work with user groups to ensure that an adequate number of large vessel mooring buoys are available and sited at appropriate locations. Accordingly, this proposed rule would have no effect on small entities.

vii. Prohibition of Catch and Release Fishing by Trolling in Four Sanctuary Preservation Areas

The proposed regulation only applies to catch and release fishing, so commercial fishing operations would not be impacted. Isolating the effects of the regulation to specific charter fishing businesses is not possible given the spatial limitations of the data available. However, the spatial extent of the SPAs where this activity is currently allowed is small and any costs to small entities are likely to be offset by spatial substitution to similar areas nearby. Accordingly, costs to small entities would be negligible.

viii. Bait Fishing Permits

The FKNMS baitfish permit database does not contain information on businesses affiliated with permit holders. However, it is assumed that some of these permit holders use baitfish catch for either commercial fishing operations or charter fishing operations. Estimated average annual replacement costs per active permit holder (*i.e.,* those who reported using the permit at least once) are $684 for lampara net fishers, between $815 and $1304 for cast net fishers, and between $94 and $150 for hair hook fishers. These estimates represent maximum potential replacement costs, as they do not account for the likelihood of spatial substitution away from the relatively small SPAs. Additionally, from 2015–2019, there were only 3 lampara net permit holders, 26 active cast net permit holders, and 5 active hair hook permit holders. The proposed rule would not affect a substantial number of small commercial fishing or charter fishing entities.

ix. Tortugas North Access Permits

This proposed regulation is an administrative change that would result in no costs to small entities.

e. Summary of Findings

i. Description of the Projected Reporting, Record-Keeping and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Will be Subject to the Requirement and the Type of Professional Skills Necessary for the Preparation of the Report or Records

The proposed regulatory action would not establish any new reporting or record-keeping requirements.

ii. Identification of All Relevant Federal Rules, Which May Duplicate, Overlap or Conflict With the Proposed Rule

No duplicative, overlapping, or conflicting federal rules have been identified.

iii. Description of Significant Alternatives to the Proposed Action and Discussion of How the Alternatives Attempt To Minimize Economic Impacts on Small Entities

This proposed rule, if implemented, is not expected to reduce the profits of any small businesses directly regulated by this proposed rule. This is in part due to the potential for substitution of location for activities and that the proposed rule is informed by and responsive to comments from the potentially impacted user groups (*e.g.,* two specific marine zones included in the DEIS are not included in the proposed rule due, in part, to comments from lobster fishermen regarding their expected maximum potential loss of access and use). As a result, the issue of significant alternatives is not relevant.

f. Conclusion of Regulatory Flexibility Analysis

This proposed regulatory action, if implemented, is not expected to reduce the profits of any small businesses directly regulated by this proposed rule. As a result, the issue of significant alternatives is not relevant. The proposed regulatory action would not establish any new reporting or record-keeping requirements. No duplicative, overlapping, or conflicting federal rules have been identified. The Chief Counsel for Regulation of the Department of Commerce certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

7. Paperwork Reduction Act

The existing FKNMS regulations contain a collection-of-information requirement for persons making an application for a permit. This collection of information is subject to the Paperwork Reduction Act (PRA), approved by the Office of Management and Budget (OMB), under control number 0648–0141 (expires November 30, 2024), for collection-of-information for reporting and recordkeeping requirements under 15 CFR part 922. This proposed rule would not increase or otherwise revise the existing paperwork burdens.

The public reporting burden for national marine sanctuary general permit applications is estimated to average 1 hour 30 minutes per application, including the time for reviewing the application instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. For special use permits, a collection-of-

information requirement is necessary to determine whether the proposed activities are consistent with the terms and conditions of special use permits prescribed by the NMSA. The public reporting burden for this collection of information is estimated to average eight (8) hours per response (application, annual report, and financial report), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The current OMB-approved collection-of-information requirement also includes other types of permits that may be issued by FKNMS, such as Tortugas North access permits, authorization permits, and certification permits. The estimates set forth in the OMB approval do not include additional time that may be required should the applicant be required to provide information to NOAA for the preparation of documentation that may be required under NEPA (16 U.S.C. 1431 *et seq.*).

NOAA does not expect that this proposed rule would appreciably change the average annual number of respondents or the reporting burden for the information requirements supporting general or special use permits, authorization permits, or certification permits because sanctuary boundaries, marine zones, and regulations are not being modified in such a way that a significant number of new permits would be expected or required. Uses that require permits are anticipated to continue with similar frequencies as current operations. NOAA believes that the proposed regulations do not necessitate a modification to its information collection approval by the Office of Management and Budget under the Paperwork Reduction Act. However, an increase in the number of ONMS permit requests would require a change to the reporting burden certified for OMB control number 0648–0141. While not expected, if such permit requests do increase, an update to this control number for the processing of ONMS permits would be requested.

Comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, may be sent to NOAA (see **ADDRESSES** above) and to the Office of Management and Budget (OMB) by email to *OIRA_submission@omb.eop.gov* or fax to (202) 395–7285. Before an agency submits a collection-of-information to OMB for approval, the agency shall provide 60-day notice in the **Federal Register**, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

8. National Historic Preservation Act

The National Historic Preservation Act (NHPA; 54 U.S.C. 300101 *et seq.*) is intended to preserve historical and archaeological sites in the United States of America. The NHPA created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices. Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The review process mandated by Section 106 is outlined in regulations issued by the ACHP (*36 CFR part 800* [14]).

In coordinating its responsibilities under Section 106 of the NHPA with release of the 2019 DEIS, NOAA solicited for and identified potential consulting parties, identified historic properties in the area of potential effects, and assessed the effects of the undertaking on such properties in consultations with those identified parties. NOAA received official comment letters from the Florida State Historic Preservation Officer, the Seminole Tribe of Florida, non-governmental organizations, associations, sanctuary historical resource permittees, and other interested members of the public. Pursuant to *36 CFR 800.16* [15](1)(1), the term ''historic property'' means: ''any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior.'' The term includes ''artifacts, records, and remains that are related to and located within such properties'' as well as ''properties of traditional religious and cultural importance to an Indian tribe . . . that meet the National Register criteria.'' Responses to comments received on the 2019 DEIS, this proposed rule, and the Section 106 consultation will be published in the Final Environmental Impact Statement and in the final rule. NOAA intends to contact the Florida State Historic Preservation Officer and the Seminole Tribe of Florida to continue NHPA Section 106 consultation based on this proposed rule and revised draft management plan. NOAA also invites additional comments from consulting parties or other interested parties on the effects to historic properties from this proposed rule.

Once this rule is final, NOAA will continue coordination with SHPO, ACHP, and other consulting parties to finalize the draft *Programmatic Agreement under Section 106 of the National Historic Preservation Act regarding Florida Keys National Marine Sanctuary Operations, Management, and Permitting,* which is a separate effort from this proposed rule.

9. Coastal Zone Management Act

Section 307 of the Coastal Zone Management Act (CZMA; 16 U.S.C. 1456) requires Federal agencies to conduct their activities in a manner that is consistent to the maximum extent practicable with the enforceable policies of a state's coastal management program if such activities will affect any coastal uses or resources of the State. NOAA provided copies of the DEIS to the State of Florida and requested that the State identify any enforceable policies of its coastal management program applicable to the proposed action. In compliance with the CZMA, NOAA will prepare a consistency determination and submit it to the State of Florida before publishing the final rule.

VI. Request for Comments

Comments are welcome on any and all aspects of the proposed rule, and we request any data that may further inform impacts of the proposed action.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Fishing gear, Incorporation by reference, Marine

[14] *https://www.ecfr.gov/current/title-36/chapter-VIII/part-800.*

[15] *https://www.ecfr.gov/current/title-36/chapter-VIII/part-800/subpart-C/section-800.16.*

resources, Natural resources, Penalties, Recreation and recreation areas, Wildlife.

Paul M. Scholz

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

Accordingly, for the reasons set forth above, NOAA is proposing to amend 15 CFR part 922 (as amended by 87 FR 29606, May 13, 2002; delayed at 87 FR 37729, June 24, 2022) as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

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

Authority: 16 U.S.C. 1431 *et seq*. Subpart P also issued under Public Law 101–605.

■ 2. Revise subpart P to read as follows:

Subpart P—Florida Keys National Marine Sanctuary

Sec.

§ 922.160 Purpose.

(a) The purpose of the regulations in this subpart is to implement the comprehensive management plan for the Florida Keys National Marine Sanctuary by regulating activities affecting the resources of the sanctuary or any of the qualities, values, or purposes for which the sanctuary is designated, in order to protect, preserve, and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In particular, the regulations in this subpart are intended to protect, restore, and enhance the living resources of the sanctuary, contribute to the maintenance of natural assemblages of living resources for future generations, provide places for species dependent on such living resources to survive and propagate, facilitate to the extent compatible with the primary objective of resource protection all public and private uses of the resources of the sanctuary not prohibited under other authorities, reduce conflicts between such compatible uses, and achieve the other policies and purposes of the Florida Keys National Marine Sanctuary and Protection Act and the National Marine Sanctuaries Act.

(b) Section 304(e) of the NMSA requires the Secretary to review management plans and regulations every five years, and make necessary revisions. Upon completion of the five-year review of the sanctuary management plan and regulations, the Secretary will re-propose the regulations in their entirety with any proposed changes thereto. The Governor of the State of Florida will have the opportunity to review the re-proposed regulations before they take effect and if the Governor certifies any such regulation as unacceptable, it will not take effect in State waters of the sanctuary.

§ 922.161 Boundary.

The sanctuary consists of an area of approximately 3622 square nautical miles (nmi2) (4797 sq. mi.) of coastal and ocean waters, and the submerged lands thereunder, surrounding the Florida Keys in Florida. Appendix A to this subpart sets forth the precise sanctuary boundary.

§ 922.162 Definitions.

(a) The following definitions apply to the Florida Keys National Marine Sanctuary regulations. Other terms appearing in the regulations in this part are defined at 15 CFR 922.11, and/or in the Marine Protection, Research, and Sanctuaries Act (MRPSA), as amended, 33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.,* and/or the Florida Keys National Marine Sanctuary and Protection Act, Public Law 101–605. To the extent that a term appears in § 922.11 and this section, the definition in this section governs.

Acts means the Florida Keys National Marine Sanctuary and Protection Act, as amended, (FKNMSPA) (Pub. L. 101–605), and the National Marine Sanctuaries Act (NMSA), also known as Title III of the Marine Protection, Research, and Sanctuaries Act, as amended, (MPRSA) (16 U.S.C. 1431 *et seq*.).

Adverse effect means any factor, force, or action that would independently or cumulatively damage, diminish, degrade, impair, destroy, or otherwise harm any sanctuary resource, as defined in section 302(8) of the NMSA (16 U.S.C. 1432(8)) and in this section, or any of those qualities, values, or purposes for which the sanctuary is designated.

Airboat means a vessel operated by means of a motor driven propeller that pushes air for momentum.

Anchoring means securing a vessel to the seabed by any means.

At risk of becoming derelict means a vessel when any of the following conditions exist:

(1) The vessel is taking on or has taken on water without an effective means to dewater;

(2) Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements;

(3) The vessel has broken loose or is in danger of breaking loose from its anchor or mooring;

(4) The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk; or

(5) The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice, which may be provided by facsimile, electronic mail, or other electronic means, stating such from the Director, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having arranged for vessel repair.

Conservation Area means an area of the sanctuary that provides natural spawning, nursery, and residence areas for the replenishment and genetic protection of marine life, and protects and preserves groups of habitats and species, within which activities are

subject to conditions, restrictions and prohibitions to achieve these objectives. These areas consist of contiguous, diverse habitats, protect a variety of sanctuary resources and/or facilitate scientific research that promotes sanctuary management or recovery of sanctuary resources. Appendix G to this subpart sets forth the geographic coordinates of these areas.

Continuous transit without interruption means a vessel must keep traveling through a designated area and fishing by any means is prohibited. However, fish, invertebrates, and marine plants may be possessed aboard a vessel if such organisms have not been harvested or removed from within the designated area. Any organisms must be stowed in a cabin, locker, or similar storage area prior to entering and during transit through a designated area, and any gear used to harvest such organisms must not be available for immediate use, as defined in this section, when entering and during transit through the designated area.

Coral means but is not limited to the corals of the Class Hydrozoa (stinging and hydrocorals); Class Anthozoa, Subclass Hexacorallia, Order Scleractinia (stony corals); Class Anthozoa, Subclass Ceriantipatharia, Order Antipatharia (black corals); and Class Anthozoa, Subclass Ocotocorallia, Order Gorgonacea, species *Gorgonia ventalina* and *Gorgonia flabellum* (sea fans).

Coral reefs means hardbottoms, patch reefs, mid-channel reefs, and all parts of the reef tract.

Deserting means leaving a vessel aground or adrift without notification to the Director of the vessel going aground or becoming adrift within 24 hours of leaving it and, having failed to salvage it, without developing and presenting to the Director a preliminary salvage plan within 72 hours of such notification, or when the owner/operator cannot after reasonable efforts by the Director be reached within 24 hours of the vessel's condition being reported to authorities; or leaving a vessel at anchor when its condition creates potential for a grounding, discharge, or deposit as determined by NOAA or Florida and the owner/operator fails to secure the vessel within the time prescribed by NOAA or Florida.

Diving means when a person is wholly or partially submerged in the water and is equipped with a face mask, face mask and snorkel, or underwater breathing apparatus.

Exotic species means any species whose natural zoogeographic range would not have included the waters of the Atlantic Ocean, Caribbean, or Gulf of Mexico without passive or active introduction to such area through anthropogenic means.

Feeding means offering, giving, or attempting to give any food or other substance to fish, including sharks, or other marine species, except for the purpose of harvesting marine species during traditional fishing as defined in this section.

Hardbottom means a submerged marine community comprised of organisms attached to solid rock substrate. Hardbottom is the substrate to which corals may attach but does not include the corals themselves.

Idle speed no wake means that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway and which does not cause a visible wake. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.

Large vessel means a vessel greater than 65' length, or the combined lengths of two or more vessels if, when tied together, the vessels would be greater than 65' length.

Length means the straight line horizontal measurement of the overall length from the foremost part of the boat to the aftermost part of the boat, measured from end to end over the deck excluding sheer, and measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the measurement.

Live rock means any living marine organism or an assemblage thereof and the hard substrate to which it is attached, including hard bottom, dead coral, rock, banks, or reefs, but not individual mollusk shells (*e.g.,* scallops, clams, oysters). Such attached living marine organisms may include, but are not limited to: sea anemones (Phylum Cnidaria: Class Anthozoa: Order Actiniaria); sponges (Phylum Porifera); tube worms (Phylum Annelida), including fan worms, feather duster worms, and Christmas tree worms; bryozoans (Phylum Bryozoa); sea squirts (Phylum Chordata); and marine algae, including Mermaid's fan and cups (*Udotea* spp.), coralline algae, green feather and green grape algae (*Caulerpa* spp.), and watercress (*Halimeda* spp.).

Marine life species means any species of fish, invertebrate, or plant designated as restricted species in subsections (2), (3), and (4) of F.A.C. 68B–42.001 (incorporated by reference, see § 922.179).

Military activity means an activity conducted by the Department of Defense with or without participation by foreign forces, other than civil engineering and other civil works projects conducted by the U.S. Army Corps of Engineers.

No anchor means securing a vessel to the seabed by any means is prohibited.

No anchor by vessels >50m length means securing a vessel greater than 50 meters (164 feet) length to the seabed by any means is prohibited.

No entry means all vessels and all persons are prohibited from entering the area.

No motor means the use of internal combustion motors is prohibited. A vessel with an internal combustion motor may access a no motor zone only through the use of a push pole, paddle, sail, electric motor, or similar means of operation, but is prohibited from using its internal combustion motor.

Not available for immediate use means not readily accessible for immediate use, *e.g.,* by being stowed unbaited in a cabin, locker, rod holder, or similar storage area, or by being securely covered and lashed to a deck or bulkhead.

Officially marked channel means a channel marked by Federal, State of Florida, or Monroe County officials of competent jurisdiction with navigational aids.

Personal watercraft means any jet or air-powered watercraft operated by standing, sitting, or kneeling on or behind the vessel, in contrast to a conventional boat where the operator stands or sits inside the vessel, and that uses an inboard engine to power a water jet pump for propulsion, instead of a propeller as in a conventional boat.

Prop dredging means the use of a vessel's propulsion wash to dredge or otherwise alter the seabed. Prop dredging includes, but is not limited to, the use of propulsion wash deflectors or similar means of dredging or otherwise altering the seabed. Prop dredging does not include the disturbance to bottom sediments resulting from normal vessel propulsion.

Prop scarring means the injury to seagrasses or other immobile organisms attached to the seabed caused by operation of a vessel in a manner that allows its propeller or other running gear, or any part thereof, to cause such injury (*e.g.,* cutting seagrass rhizomes).

Residential shoreline means any human-made or natural shoreline, canal mouth, basin, or cove, when any of these features are adjacent to any residential land use district, including: improved subdivision, suburban residential or suburban residential limited, sparsely settled, urban

residential, and urban residential mobile home under the Monroe County land development regulations.

Restoration Area means an area of the sanctuary that supports species or habitat recovery, including protection for restoration sites (referred to as Restoration Areas—Habitat) and short- and long-term propagation nurseries (referred to as Restoration Areas—Nursery), within which activities are subject to conditions, restrictions, and prohibitions to achieve these objectives. Appendices H and I to this subpart set forth the geographic coordinates of these areas.

Sanctuary means the Florida Keys National Marine Sanctuary.

Sanctuary Preservation Area means an area of the sanctuary that encompasses a discrete, biologically important area, within which activities are subject to conditions, restrictions, and prohibitions, to avoid concentrations of uses that could result in significant declines in species populations or habitat, to reduce conflicts between uses, to protect areas that are critical for sustaining important marine species or habitats, or to provide opportunities for scientific research. Appendix F to this subpart sets forth the geographic coordinates of these areas.

Tank vessel means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(1) Is a vessel of the United States;

(2) Operates on the navigable waters of the United States; or

(3) Transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States (46 U.S.C. 2101).

Traditional fishing means those commercial or recreational fishing activities that were customarily conducted within the sanctuary prior to its designation as identified in the 1996 FL Keys NMS FMP/EIS (Vol. II) and Management Plan, pages 84–91 (incorporated by reference, see § 922.179).

Tropical fish means any species of fish designated as a restricted species in F.A.C. 68B–42.001(2) and defined as tropical fish under F.A.C. 68B–42.002(18) (incorporated by reference, see § 922.179).

Wildlife Management Area means an area of the sanctuary in which various access and use restrictions are applied to manage, protect, preserve, and minimize disturbance to sanctuary wildlife resources, including but not limited to endangered or threatened species, or the habitats, special places, or conditions on which they rely. Appendix E to this subpart lists these areas and their access and use restrictions.

§ 922.163 Prohibited activities—Sanctuary-wide.

(a) Except as specified in paragraphs (b) and (c) of this section, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted:

(1) *Mineral and hydrocarbon exploration, development and production.* Exploring for, developing, or producing minerals or hydrocarbons within the sanctuary.

(2) *Removal of, injury to, or possession of coral or live rock.* Moving, removing, harvesting, damaging, disturbing, touching, breaking, cutting, otherwise injuring, or possessing, in or from the sanctuary, any living or dead coral or coral formation, or live rock, or attempting any of these activities, except as authorized by an aquacultured live rock permit issued by the National Marine Fisheries Service or a Florida Sovereignty Submerged Land Live Rock Aquaculture Lease issued by the Florida Department of Agriculture and Consumer Services.

(3) *Alteration of, or construction on, the seabed.* Drilling into, dredging, or otherwise altering the seabed of the sanctuary, or engaging in prop-dredging; or constructing, placing, or abandoning any structure, material, or other matter on or in the seabed of the sanctuary, except as an incidental result of:

(i) Anchoring vessels in a manner not otherwise prohibited by this subpart;

(ii) Traditional fishing activities not otherwise prohibited by this subpart;

(iii) Installation and maintenance of navigational aids by, or pursuant to valid authorization by, any Federal, State, or local authority of competent jurisdiction;

(iv) Dredging within Key West Harbor, its approach channels, and turning basins, only in Federally dredged areas in existence as of July 1, 1997;

(v) Construction, repair, replacement, or rehabilitation of minor structures including docks, swim/observation platforms, floating vessel platforms, boat ramps, boat notches, boat lifts, mooring piles, seawalls, rip rap revetments, culverts, bulkheads, piers, or marinas with less than ten slips authorized by any valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent jurisdiction; or

(vi) Placement of approved rock material pursuant to the terms and conditions of an aquaculture live rock permit issued by the National Marine Fisheries Service or a Florida Sovereignty Submerged Land Live Rock Aquaculture Lease issued by the Florida Department of Agriculture and Consumer Services.

(4) *Discharge or deposit of materials or other matter.* (i) Within the boundary of the sanctuary, discharging or depositing any material or other matter from a cruise ship, except cooling water;

(ii) Within the boundary of the sanctuary, discharging or depositing any material or other matter from a vessel other than a cruise ship, except:

(A) Fish, fish parts, chumming materials, or bait used or generated incidental to and while conducting traditional fishing in the sanctuary;

(B) Cooling water, deck washdown, and graywater, discharged in compliance with 33 U.S.C. 1322 *et seq.* Vessels may not discharge oily wastes from bilge pumping.

(iii) Beyond the boundary of the sanctuary, discharging or depositing any material or other matter that subsequently enters the sanctuary and injures a sanctuary resource or quality, except:

(A) Those listed in paragraphs (a)(4)(ii)(A) and (B) of this section;

(B) Sewage from a vessel in compliance with United States Coast Guard regulations at 33 CFR 159.7;

(C) Those authorized under Monroe County land use permits; or

(D) Those authorized under State of Florida permits.

(5) *Operation of vessels.* (i) Operating a vessel in such a manner as to strike or otherwise injure coral, coral reefs, hardbottom, seagrass, or any other immobile organism attached to the seabed, including, but not limited to, operating a vessel in such a manner as to cause prop-scarring.

(A) The owner and/or operator of any vessel that has been operated in a manner described in paragraph (a)(5)(i) introductory text of this section must notify the Director of such an event within 24 hours after its occurrence. Unless otherwise prohibited or restricted by the United States Coast Guard, the owner and/or operator must remove or cause the removal of the vessel within 72 hours after the initial incident unless the Director agrees that extenuating circumstances such as weather or marine hazards would prevent safe removal of the vessel. The owner and/or operator must remove or cause the removal of the vessel in a manner that avoids injury to sanctuary resources and shall consult with the Director in accomplishing this task.

(B) [Reserved].

(ii) Anchoring a vessel on living coral.

(iii) Except in officially marked channels, operating a vessel at a speed greater than idle speed no wake within:

(A) An area designated as idle speed no wake;

(B) 300 feet (100 yards) of navigational aids indicating emergent or shallow reefs (international diamond warning symbol);

(C) 300 feet (100 yards) of residential shorelines; or

(D) 300 feet (100 yards) of a stationary vessel.

(iv) Operating a vessel at a speed greater than idle speed no wake less than 100 feet (33.3 yards) from a divers-down flag on an inlet or navigation channel; or less than 300 feet (100 yards) from a divers-down flag on all waters other than inlets and navigation channels.

(v) Operating a vessel in such a manner as to injure wading, roosting, or nesting birds, or marine mammals.

(vi) Operating a vessel in a manner that endangers life, limb, marine resources, or property.

(vii) Having a marine sanitation device that is not secured in a manner that prevents discharges or deposits of treated or untreated sewage. Acceptable methods include, but are not limited to, all methods that have been approved by the United States Coast Guard.

(viii) Anchoring, mooring, or occupying a vessel at risk of becoming derelict, or deserting a vessel aground, at anchor, moored, or adrift in the sanctuary.

(ix) Leaving harmful matter aboard a grounded or deserted vessel in the sanctuary.

(x) Tying a large vessel to a mooring buoy not specifically designated for large vessels, or tying a vessel other than a large vessel to a mooring buoy specifically designated for large vessels.

(6) *Conduct of diving/snorkeling without a flag.* Diving or snorkeling without displaying a divers-down flag from the highest point of the vessel or such other location from which the visibility of the divers-down flag is not obstructed in any direction.

(i) Divers must stay within 100 feet (33.3 yards) of the divers-down flag on inlets and navigation channels.

(ii) Divers must stay within 300 feet (100 yards) of the divers-down flag on all waters in the sanctuary other than rivers, inlets, and navigation channels.

(7) *Release of exotic species.* Introducing or releasing any exotic species into the sanctuary.

(8) *Damage or removal of markers.* Marking, defacing, or damaging in any way or displacing, removing, or tampering with any official markers, signs, notices, or placards, whether temporary or permanent, or with any navigational aids, monuments, stakes, posts, mooring buoys, boundary buoys, trap buoys, or scientific equipment.

(9) *Movement of, removal of, injury to, or possession of sanctuary historical resources.* Moving, removing, injuring, or possessing, or attempting to move, remove, injure, or possess, a sanctuary historical resource.

(10) *Conduct of prohibited activities under the MMPA, ESA, and MBTA.* Conducting any activity that is prohibited under the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.,* the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.,* or the Migratory Bird Treaty Act, as amended, (MBTA) 16 U.S.C. 703 *et seq.,* except as authorized under those statutes.

(11) *Possession or use of explosives or electrical charges.* Possessing, using, or releasing explosives or electrical charges within the sanctuary, except powerheads and distress signaling devices when necessary and proper for safety.

(12) *Harvest or possession of marine life species.* Harvesting, fishing for, possessing, or landing any marine life species, or part thereof, in or from the sanctuary, except as authorized by a valid State of Florida license or exemption.

(13) *Interference with law enforcement.* Interfering with, obstructing, delaying, or preventing an investigation, a boarding, a search, a seizure, or the disposition of seized property in connection with enforcement of the Acts or any regulation or permit issued under the Acts.

(14) *Fish feeding.* Attracting or feeding fish, including sharks, or other marine species from any vessel and/or while diving. Attracting or feeding does not include using bait or chum when conducting traditional fishing.

(b) *Exemption for Military Activities.*(1) The prohibitions in paragraph (a) of this section and § 922.164 do not apply to existing classes of military activities that were conducted prior to the effective date of these regulations, as identified in the 2022 Final Environmental Impact Statement and Management Plan (for availability, see *http://www.floridakeys.noaa.gov*) for the sanctuary. New military activities in the sanctuary may be exempted from the prohibitions in paragraph (a) of this section and in § 922.164 by the Director after consultation between the Director and the Department of Defense.

(2) In the event of threatened or actual destruction of, loss of, or injury to a sanctuary resource or quality, including but not limited to spills and groundings caused by the Department of Defense, the cognizant component of the Department of Defense shall promptly coordinate with the Director for the purpose of taking appropriate actions to prevent, respond to, or mitigate the harm and, if possible, restore or replace the sanctuary resource or quality.

(c) *Exemption for Law Enforcement.* The following prohibitions do not apply to Federal, State, or local officers while performing enforcement duties in their official capacities or responding to emergencies that threaten life, property, or the environment:

(1) Those contained in paragraphs (a)(2), (a)(5), and (a)(8) through (a)(12) of this section;

(2) Those contained in paragraph (a)(4), except that all discharges of sewage must be in compliance with United States Coast Guard regulations at 33 CFR 159.7;

(3) Those contained in § 922.164(b)(1), (2) and (4); and

(4) Those contained in § 922.164(d) through (h).

(d) In no event may the Director issue a permit, including a certification or authorization, under § 922.10, subpart D of this part, § 922.166, or § 922.167 authorizing, or otherwise approving, the exploration for, leasing, development, or production of minerals or hydrocarbons within the sanctuary, the disposal of dredged material within the sanctuary other than in connection with beach renourishment or sanctuary restoration projects, or the discharge of untreated or primary treated sewage, and any purported authorizations issued by other authorities for any of these activities within the sanctuary shall be invalid.

§ 922.164 Additional activity regulations by designated sanctuary area.

In addition to the prohibitions set forth in § 922.163, which apply throughout the sanctuary, the following regulations apply with respect to activities conducted within the sanctuary areas described in this section and in appendices B through I to this subpart.

(a) *Areas to be avoided.* Operating a tank vessel or a vessel greater than 50 meters (164 feet) in length, or towing vessel(s), equipment, or materials such that the combined length of the tow vessel and all towed vessels, equipment, or materials is greater than 50 meters, is prohibited in all areas to be avoided, except if such vessel is a public vessel and its operation is essential for national defense, law enforcement, or responses to emergencies that threaten life, property, or the environment. Appendix B to this subpart sets forth the

geographic coordinates of these areas, which are established under Florida Keys National Marine Sanctuary and Protection Act, Public Law 101–605 and International Maritime Organization advisory SN/Circ. 145.

(b) *Key Largo and Looe Key Management Areas.* The following activities are prohibited within the Key Largo and Looe Key Management Areas described in appendix C to this subpart:

(1) Removing, collecting, damaging, harming, breaking, cutting, spearing, or similarly injuring, or possessing, in or from the management area, any coral or other marine invertebrate, or any plant, soil, rock, or other material, except that commercial harvesting of spiny lobster and stone crab by trap and recreational harvesting of spiny lobster by hand or by hand gear is allowed if consistent with the regulations in this part and regulations under the Magnuson-Stevens Fishery Conservation and Management Act.

(2) Collecting or harvesting tropical fish.

(3) Fishing with wire fish traps, bottom trawls, dredges, fish sleds, or similar vessel-towed or anchored bottom fishing gear or nets.

(4) Fishing with, carrying, or possessing pole spears, air rifles, bows and arrows, slings, Hawaiian slings, rubber powered arbaletes, pneumatic and spring-loaded guns, or similar devices known as spearguns.

(c) *Great White Heron and Key West National Wildlife Refuges.* Operating a personal watercraft, operating an airboat, water skiing, and landing recreational aircraft are prohibited within the Great White Heron and Key West National Wildlife Refuges (described in appendix D to this subpart), except that operating a personal watercraft is allowed in six areas described in appendix D.

(d) *Wildlife Management Areas.* Appendix E to this subpart sets forth the geographic coordinates of Wildlife Management Areas. The following access and use restrictions apply in individual Wildlife Management Areas. Certain exceptions from the access and use restrictions are also provided. All restrictions apply year-round unless specified.

TABLE 1 TO PARAGRAPH (d)

Wildlife management area	Access and use restriction
Barnes-Card Sound Wildlife Management Area	No motor.
Crocodile Lake Wildlife Management Area	No entry within 300 feet (100 yards) of shorelines. Exceptions: Steamboat Creek.
Eastern Lake Surprise Wildlife Management Area	Idle speed no wake. No entry within 300 feet (100 yards) of the northern half of the shoreline. No entry in the canal and basin on the southeast side.
Whitmore Bight Wildlife Management Area	No motor.
Pelican Key Wildlife Management Area	No entry.
Dove and Rodriguez Keys Wildlife Management Area	No motor.
Pigeon Key Wildlife Management Area	No entry.
Tavernier Key Wildlife Management Area	No motor and no anchor. Exceptions: • Tavernier Creek. • Unnamed channel to the northeast of Tavernier Creek.
Snake Creek Wildlife Management Area	No motor. Exceptions: • Snake Creek. • Three channels providing access to Windley Key.
Cotton Key Wildlife Management Area	No motor.
Ashbey-Horseshoe Key Wildlife Management Area	No entry.
Channel Key Banks Wildlife Management Area	Idle speed no wake. Exceptions: • Channel Key Pass.
Marathon Oceanside Shoreline Wildlife Management Area	Idle speed no wake. Exceptions: • Ten channels providing access to Marathon.
Red Bay Bank Wildlife Management Area	Idle speed no wake.
East Bahia Honda Key Wildlife Management Area	No motor.
West Bahia Honda Key Wildlife Management Area	No motor.
Horseshoe Keys Wildlife Management Area	No entry.
Little Pine Key Mangrove Wildlife Management Area	No entry.
Water Key Mangroves Wildlife Management Area	No entry.
Howe Key Mangrove Wildlife Management Area	No entry.
East Content Keys and Upper Harbor Key Flats Wildlife Management Area.	Idle speed no wake in all tidal creeks and shallow flats. No entry around Upper Harbor Key.
West Content Keys Wildlife Management Area	Idle speed no wake in the eastern tidal creek. No entry in the western cove.
Torch Key Mangroves Wildlife Management Area	No entry.
Northeast Tarpon Belly Keys Wildlife Management Area	No motor.
Crane Key Wildlife Management Area	No entry.
Sawyer Key Wildlife Management Area	No entry.
Happy Jack Key Wildlife Management Area	No entry.
Barracuda Keys Wildlife Management Area	Idle speed no wake.
Pelican Shoal Wildlife Management Area	No entry.
Snipe Keys Wildlife Management Area	Idle speed no wake in the main tidal creek. No motor in all other tidal creeks. No entry around the two small southern islands.

TABLE 1 TO PARAGRAPH (d)—Continued

Wildlife management area	Access and use restriction
Mud Keys Wildlife Management Area	Idle speed no wake.
Lower Harbor Keys Wildlife Management Area	Idle speed no wake.
East Harbor Key Wildlife Management Area	No entry.
Cayo Agua Keys Wildlife Management Area	Idle speed no wake.
Bay Keys Wildlife Management Area	Idle speed no wake in the channel north of the western island. No motor around the eastern and western islands.
Archer Key Wildlife Management Area	No anchor.
Big Mullet Key Wildlife Management Area	No motor.
Cottrell Key Wildlife Management Area	No entry.
Little Mullet Key Wildlife Management Area	No entry.
Ballast and Man Keys Flats Wildlife Management Area	Idle speed no wake. Exception: Two channels between the keys.
Western Dry Rocks Wildlife Management Area	From April 1 to July 31, continuous transit without interruption and no anchor.
Woman Key Wildlife Management Area	No entry.
Boca Grande Key Wildlife Management Area	No entry.
Marquesas Keys Wildlife Management Area	Idle speed no wake in the creek east of Gull Keys. No entry around the small island west of Gull Key. No entry around three smallest islands on the western side of Mooney Harbor.
Marquesas Keys Turtle Wildlife Management Area	Idle speed no wake.
Tortugas Bank Wildlife Management Area	No anchor by vessels >50m length.
Pulley Ridge Wildlife Management Area	No anchor.

(e) *Sanctuary Preservation Areas.* Appendix F to this subpart sets forth the geographic coordinates of Sanctuary Preservation Areas. The following activities are prohibited within the Sanctuary Preservation Areas:

(1) Discharging or depositing any material or other matter, except cooling water from vessels.

(2) Moving, harvesting, removing, collecting, damaging, disturbing, breaking, cutting, spearing, otherwise injuring, or possessing, in or from the area, any coral, marine invertebrate, fish, bottom formation, algae, seagrass or other living or dead organism, including shells, or attempting any of these activities. However, fish, invertebrates, and marine plants may be possessed aboard a vessel provided that the vessel remains in continuous transit without interruption.

(3) Anchoring a vessel.

(f) *Conservation Areas.* Appendix G to this subpart sets forth the geographic coordinates of Conservation Areas. The following activities are prohibited within the Conservation Areas:

(1) Conducting any activity prohibited at 922.164(e)(1) and 922.164(e)(2).

(2) Anchoring a vessel, except in the Western Sambo Conservation Area where anchoring is allowed landward of the line connecting the points 24.498774, −81.725441 and 24.504693, −81.693012.

(3) Entering a Conservation Area other than the Western Sambo Conservation Area, except for continuous transit without interruption.

(g) *Restoration Areas—Habitat.* Appendix H to this subpart sets forth the geographic coordinates of Restoration Areas—Habitat. The following activities are prohibited within the Restoration Areas—Habitat:

(1) Conducting any activity prohibited at 922.164(e).

(h) *Restoration Areas—Nursery.* Appendix I to this subpart sets forth the geographic coordinates of Restoration Areas—Nursery. The following activities are prohibited within the Restoration Areas—Nursery:

(1) Conducting any activity prohibited at 922.164(e).

(2) Entering any Restoration Area—Nursery, except for continuous transit without interruption.

§ 922.165 Temporary regulation for emergency and adaptive management.

(a) Any and all activities are subject to temporary regulation, including prohibition of any activity, restriction of access or uses, or designation or modification of any areas identified in §§ 922.164(d) through (h), subject to the limitations in this section.

(b) The Director may temporarily regulate activities in the sanctuary only if the Director determines, based on the best available information, that immediate action is reasonably necessary to:

(1) Prevent or minimize destruction of, loss of, or injury to sanctuary resources, or risk of the same, from any human-made or natural circumstances. These circumstances may include, but are not limited to, a concentration of human-use, change in migratory or habitat use patterns, vessel impacts, natural disaster or similar emergency, disease, or bleaching;

(2) Initiate restoration, recovery, or other activity to improve or repair living habitats and species where a delay in time would impair the ability of such activity to succeed; or

(3) Initiate research where an unforeseen event produces an opportunity for scientific research that may be lost if research is not initiated immediately.

(c) Any temporary regulation issued under this section shall be subject to the following procedure:

(1) No temporary regulation issued under this section will take effect until the Director:

(i) Files the proposed temporary regulation for public inspection with the Office of the Federal Register; and,

(ii) Finds for good cause that notice and comment rulemaking under the Administrative Procedure Act, 5 U.S.C. 553, is impracticable, unnecessary, or contrary to the public interest.

(2) The Director shall receive public comments on the necessity for, and extent of, the temporary regulation for a period of 15 days after the effective date of notification.

(3) Notification of temporary regulation issued by the Director under this section will include the following information:

(i) A description of the regulation;

(ii) Reason(s) for the regulation under paragraph (b) of this section, and the good cause determinations required under paragraph (c)(1) of this section; and

(iii) The effective date and any termination date of such regulation.

(d) Any temporary regulation may be in effect for up to six months (180 days), with one six-month (additional 186-day) extension. Any extension requires the same procedures in paragraphs (c)(1) to (c)(3) of this section. Additional or extended action beyond 365 days will require notice and comment rulemaking under the Administrative Procedure Act, 5 U.S.C. 553.

(e) Temporary regulations under this section shall not take effect in Florida State waters until approved by the Governor of the State of Florida.

(f) It is prohibited for any person to violate any temporary regulation imposed under this section.

§ 922.166 National Marine Sanctuary permitting—General permits, special use permits, and authorizations

(a) *National Marine Sanctuary general permits.* (1) Except as noted at § 922.163(d), a person may conduct an activity prohibited by § 922.163 or 922.164 if such activity is specifically allowed by, and conducted in accordance with the scope, purpose, and terms and conditions of a general permit issued under this section or subpart D of this part.

(2) The Director, at his or her discretion, may issue a general permit under this section subject to such terms and conditions as he or she deems appropriate, if the Director finds that the activity falls within one of the general permit categories at § 922.30(b) or one of the following categories:

(i) *Archaeological research:* Activities involving the scientific study of the physical remains of human activity and its surrounding environmental context, utilizing research questions to inform society's understanding of the past;

(ii) *Restoration:* Activities that further restoration of natural resources of the sanctuary;

(iii) *Tortugas North Conservation Area Access:* Activities that involve access to and entry into the Tortugas North Conservation Area.

(b) *Application requirements and procedures.* (1) Applications for general permits, special use permits, and authorizations under this section or subpart D of this part, other than for Tortugas North Conservation Area Access shall be addressed to the Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040 or sent by electronic means as defined in the instructions for the ONMS permit application. All applications, except those for Tortugas North Conservation Area Access, shall comply with the requirements and procedures under subpart D of this part.

(2) Applications for general permits for Tortugas North Conservation Area shall be requested via telephone to FKNMS at (305) 809–4700 or by email to *TortugasNorthPermit@noaa.gov* at least 72 hours before the date the permit is desired to be effective. All applications shall include:

(i) Vessel name;

(ii) Name, address, and telephone number of owner and operator;

(iii) Name, address, and telephone number of applicant;

(iv) USCG documentation, state license, or registration number;

(v) Home port;

(vi) Length of vessel and propulsion type (*i.e.,* motor or sail);

(vii) Number of divers; and

(viii) Requested effective date (date of ingress) and date of egress. General permits for Tortugas North Conservation Area Access shall be issued for a period not exceeding two weeks.

(c) *Review procedures and evaluation.* (1) *General permits, special use permits, and authorizations.* The Director shall review and evaluate an application for a general permit, special use permit, or authorization in accordance with this section and subpart D of this part.

(2) *General permits for archaeological research.* The Director shall not issue a general permit for archaeological research unless the Director makes the required findings in paragraph (c)(1) of this section and further finds that:

(i) The applicant is a supervising archaeologist responsible for project planning, field operations, research analysis, and reporting, and who will directly supervise and be on site for any excavation and/or historical resource recovery operations. A supervising archaeologist shall have underwater archaeological experience related to the research proposed and shall meet the requirements for prehistoric or historic archaeology in the ''Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation,'' which are:

(A) A graduate degree in archaeology, anthropology, or closely related field;

(B) At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management;

(C) At least four months of supervised field and analytic experience in general North American archaeology;

(D) Demonstrated ability to carry research to completion; and

(E) A professional in prehistoric archaeology shall have at least one year of full-time professional experience at a supervisory level in the study of prehistoric period archaeological resources. A professional in historic archaeology shall have at least one year of full-time professional experience at a supervisory level in the study of historic period archaeological resources;

(ii) The applicant commits to following an explicit statement of objectives and methods that respond to needs identified in the planning process;

(iii) The methods and techniques of the proposed activity are selected to obtain the information required by the statement of objectives; and

(iv) The applicant commits to assess the results against the statement of objectives and integrate them into the planning process.

(3) *Activities in designated sanctuary areas.* The Director shall not issue a general permit, special use permit, or authorization under this section or subpart D of this part for activities within any of the areas described in § 922.164 (b) through (h) unless he or she finds that such activities will further and are consistent with the purposes for which such area was established, as described in §§ 922.162 and 922.164 and in the management plan for the sanctuary.

(d) *Terms and conditions.* (1) In addition to any terms and conditions in subpart D of this part, general permits, special use permits, and authorizations issued under this section or subpart D of this part shall be subject to the following terms and conditions:

(i) Except for Tortugas North Conservation Area Access Permits, the signed permit or a copy thereof shall be maintained in legible condition on board all vessels or aircraft used in the conduct of the permitted activity and be displayed for inspection upon the request of any authorized officer;

(ii) All permitted activities shall be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources or qualities, except to the extent that such may be specifically authorized;

(iii) The permittee agrees to hold the United States harmless against any claims arising out of the conduct of the permitted activities; and

(iv) All necessary Federal, State, and/or local leases, permits, licenses, approvals, or other authorizations from all agencies with jurisdiction over the proposed activities shall be secured before commencing any activities authorized pursuant to a sanctuary permit.

(2) General permits for archaeological research shall be subject to the terms and conditions in paragraph (d)(1) of

this section and to the following terms and conditions:

(i) An agreement with a conservation laboratory shall be in place before historical resource recovery operations begin, where a qualified marine archaeological materials conservator shall be in charge of planning, conducting, and supervising the conservation of any historical resources and other materials recovered. To be considered a qualified marine archaeological materials conservator, the individual shall have a graduate degree in archaeology, history, anthropology, or science with experience conserving archaeological materials recovered from the marine environment documented in a Curriculum Vitae and professional references; and

(ii) A curation agreement with a museum or facility for curation, public access, periodic public display, and maintenance of the recovered historical resources shall be in place before commencing field operations involving historical resource recovery. The curation facility shall meet the requirements of 36 CFR part 79.

(3) The Director, at his or her discretion, may subject a general permit, special use permit, or authorization issued under this section of subpart D of this part to such additional terms and conditions as he or she deems appropriate. These may include but are not limited to the following:

(i) Any data, information, or results obtained pursuant to the permit shall be made available to NOAA and the public;

(ii) A NOAA official shall be allowed to observe any activity conducted pursuant to the permit;

(iii) The permittee shall submit to NOAA one or more reports on the status, progress, or results of any activity authorized by the permit, including all revenues derived from such activities during the year and/or term of the permit, as applicable; and

(iv) The permittee shall purchase and maintain general liability insurance or other acceptable security against potential claims for destruction, loss of, or injury to sanctuary resources arising out of the permitted activities. The amount of insurance or security should be commensurate with an estimated value of the sanctuary resources in the permitted area. A copy of the insurance policy or security instrument shall be submitted to the Director.

§ 922.167 National Marine Sanctuary permitting—Certifications.

(a) Except as noted at § 922.163(d), a person may conduct an activity prohibited by § 922.163 or 922.164 within the sanctuary expansion area, or an activity within the sanctuary or expansion area that is newly regulated by this subpart, if such activity is specifically authorized by a valid Federal, State, or local lease, permit, license, or right of subsistence use or of access that is in existence on the effective date of the revised terms of designation, provided that the holder of the lease, permit, license, or right of subsistence use or of access complies with § 922.10 and provided that:

(1) The holder of such authorization or right notifies the Director, in writing, within 90 days of the effective date of the revised terms of designation of the existence and location of such authorization or right and requests certification of such authorization or right; and

(2) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director, to achieve the purposes for which the sanctuary was designated.

(b) Requests for certifications shall be addressed to the Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040 or sent by electronic means as defined in the instructions for the ONMS permit application. A copy of the lease, permit, license, or right of subsistence use or of access must accompany the request.

(c) A certification requester with an authorization or right described in paragraph (a) of this section authorizing an activity prohibited by § 922.163 or 922.164 may continue to conduct the activity without being in violation of applicable provisions of § 922.163 or 922.164, pending the Director's review of and decision regarding his or her certification request.

(d) The Director may request additional information from the certification requester as the Director deems reasonably necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the sanctuary was designated. The Director must receive the information requested within 45 days of the date of the Director's request for information. Failure to provide the requested information within this time frame may be grounds for denial by the Director of the certification request.

(e) In considering whether to issue a certification, the Director may seek and consider the views of any other person or entity, within or outside the Federal government, and may hold a public hearing as deemed appropriate by the Director.

(f) Upon completion of review of the authorization or right and information received with respect thereto, the Director shall communicate, in writing, any decision on a certification request or any action taken with respect to any certification made under this section, in writing, to both the holder of the certified lease, permit, license, approval, other authorization, or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(g) The Director may amend, suspend, or revoke any certification issued under this section whenever continued operation would otherwise be inconsistent with any terms or conditions of the certification. Any such action shall be forwarded in writing to both the certification holder and the agency that issued the underlying lease, permit, license, or right of subsistence use or of access, and shall set forth reason(s) for the action taken.

(h) The Director may amend any certification issued under this section whenever additional information becomes available that he or she determines justifies such an amendment.

(i) Any time limit prescribed in or established under this section may be extended by the Director for good cause.

(j) It is unlawful for any person to violate any terms and conditions in a certification issued under this section.

§§ 922.168—922.178 [Reserved]

§ 922.179 Incorporation by reference.

Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the National Oceanic and Atmospheric Administration (NOAA) and at the National Archives and Records Administration (NARA). Contact NOAA at: the Office of National Marine Sanctuaries (ONMS), 1305 East-West Highway, Silver Spring, MD 20910; phone (301) 713–3125; website: *https://sanctuaries.noaa.gov/contact.html*. For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html*. The material may be obtained from the following sources:

(a) *Department of Commerce, NOAA*. Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040; phone: (305) 809–4700; *https://floridakeys.noaa.gov*.

(1) 1996 FL Keys NMS FMP/EIS (Vol. II). Florida Keys National Marine Sanctuary Final Management Plan/ Environment Impact Statement, Volume II of III—Development of the Management Plan: Environmental Impact Statement, 1996; IBR into § 922.162.

(2) [Reserved]

(b) *State of Florida—Department of State.* R.A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399–0250; phone: (850) 245–6270; email: *AdministrativeCode@dos.myflorida.com*; website: *https://flrules.org/*.

(1) *F.A.C. 68B–42.001.* Florida Administrative Code (F.A.C.), Fish and Wildlife Conservation Commission—Marine Fisheries—Marine Life—Purpose and Intent; Designation of Restricted Species; Definition of ''Marine Life Species'', effective November 1, 2012; IBR into § 192.162.

(2) *F.A.C. 68B–42.002.* Florida Administrative Code (F.A.C.), Fish and Wildlife Conservation Commission—Marine Fisheries—Marine Life—Definitions, effective November 1, 2012; IBR into § 192.162.

Appendix A to Subpart P of Part 922—Florida Keys National Marine Sanctuary Boundary Coordinates

The Florida Keys National Marine Sanctuary (sanctuary) encompasses an area of 3,622 square nautical miles (4,797 square miles) of coastal, ocean, and Gulf of Mexico waters and the submerged lands thereunder from the boundary to the shoreline as defined by the mean high water tidal datum surrounding the Florida Keys in southern Florida.

The sanctuary boundary begins approximately 4 miles east of the northern extent of Key Biscayne at Point 1 and continues roughly south and then southwest and west in numerical order to Point 15 approximately 27 miles SW of Loggerhead Key. From Point 15 the sanctuary boundary continues north to Point 17 which is approximately 18 miles NW of Loggerhead Key and then continues roughly east in numerical order to Point 23 just north of Sprigger Bank. From Point 23 the boundary continues in numerical order roughly SE to Point 26 just north of Old Dan Bank. From Point 26 the boundary continues NE in numerical order through Bowlegs Cut and Steamboat Channel to Point 42 near the southern entrance to Cowpens Cut west of Plantation Key.

From Point 42 the boundary continues towards Point 43 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNE until it intersects the line segment formed between Point 44 and Point 45.

From this intersection the boundary continues NNE to Point 45 and then roughly NE in numerical order to Point 61 just west of Hammer Point in Tavernier, FL. From Point 61 the boundary continues in numerical order roughly north and then NW to Point 64 just west of Pigeon Key. From Point 64 the boundary continues in numerical order roughly NE then NNE through Baker Cut to Point 69. From Point 69 the boundary continues in numerical order roughly NE through Buttonwood Sound to Point 73.

From Point 73 the boundary continues towards Point 74 until it intersects the shoreline near the southern entrance to Grouper Creek west of Key Largo, FL. From this intersection the boundary follows the shoreline NE along Grouper Creek until it intersects the line segment formed between Point 75 and Point 76. From this intersection the boundary continues towards Point 76 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly east until it intersects the line segment formed between Point 77 and Point 78.

From this intersection the boundary continues to Point 78 and then roughly ESE in numerical order through Tarpon Basin to Point 85. From Point 85 the boundary continues NE and then NW to Point 92.

From Point 92 the boundary continues towards Point 93 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly north along Dusenberry Creek until it intersects the line segment formed between Point 94 and Point 95.

From this intersection the boundary continues to Point 95 and then NE in numerical order through Blackwater Sound to Point 102 south of the entrance to Jewfish Creek.

From Point 102 the boundary continues towards Point 103 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNE and then NW until it intersects the line segment formed between Point 104 and Point 105. From this intersection the boundary continues towards Point 105 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNE and then roughly west along southwestern Barnes Sound and around Division Point until it intersects the line segment formed between Point 106 and Point 107 near Manatee Creek east of Long Sound. From this intersection the boundary continues towards Point 107 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNW until it intersects the line segment formed between Point 108 and Point 109. From this intersection the boundary continues towards Point 109 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly east until it intersects the line segment formed between Point 109 and Point 110. From this intersection the boundary continues towards Point 110 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly north and then NE until it intersects the line segment formed between Point 111 and Point 112. From this intersection the boundary continues towards Point 112 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly east and then north around Bay Point and then west until it intersects the line segment formed between Point 113 and Point 114. From this intersection the boundary continues towards Point 114 until it intersects the shoreline. From this intersection the boundary follows the shoreline north along the western side of Manatee Bay until it intersects the line segment formed between Point 115 and Point 116. From this intersection the boundary continues towards Point 116 until it intersects the shoreline.

From this intersection the boundary follows the shoreline around northern Manatee Bay and Barnes Sound until it intersects the line segment formed between Point 117 and Point 118. From this intersection the boundary continues towards Point 118 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly to the SE south of FL State Route 905A—Card Sound Road then NW and roughly north along western Little Card Sound and then Card Sound cutting off the mouths of canals and drainage ditches until it intersects the line segment formed between Point 119 and Point 120 south of Midnight Pass. From this intersection the boundary continues to Point 120 and then roughly SE to each successive point in numerical order approximating the southern boundary of Biscayne National Park to Point 142 approximately 3 miles ENE of Turtle Rocks. From Point 142 the boundary continues roughly N to each successive point in numerical order ending at Point 158.

The inner landward sanctuary boundary is defined by and follows the shoreline where not already specified in the description above.

Pulley Ridge, located along the southwest Florida Shelf in the eastern Gulf of Mexico, is included as a part of the FKNMS, and the sanctuary boundary for this area begins approximately 52 miles NW of Loggerhead Key at Point PR1 and continues to each successive point in numerical order ending at Point PR9.

Dry Tortugas National Park is not included within the FKNMS and the inner sanctuary boundary in this area is coterminous with this national park boundary and begins at Point DT1 and continues in numerical order counterclockwise around the national park ending at Point DT10.

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

FLORIDA KEYS NATIONAL MARINE SANCTUARY BOUNDARY COORDINATES

Point	Latitude	Longitude
1	25.72274	−80.08695
2	25.64500	−80.04500
3	25.36667	−80.05000
4	25.10633	−80.17467
5	24.93950	−80.32100
6	24.63167	−80.78833
7	24.48667	−81.28833
8	24.37167	−81.71950
9	24.38333	−81.89167
10	24.38333	−82.05833
11	24.38749	−82.22133
12	24.38854	−82.26357
13	24.36667	−82.80000
14	24.30000	−83.08333
15	24.30084	−83.16711
16	24.54992	−83.16627
17	24.76760	−83.16665
18	24.76670	−83.10000
19	24.76667	−82.90000
20	24.76333	−82.80000
21	24.73333	−81.91667
22	24.85000	−81.43333
23	24.91667	−80.93333
24	24.87555	−80.89054
25	24.87315	−80.88754
26	24.85164	−80.83258
27	24.86699	−80.77381
28	24.89338	−80.74983
29	24.90039	−80.73560
30	24.90073	−80.73483
31	24.91255	−80.72551
32	24.93676	−80.67597
33	24.93859	−80.67223
34	24.93891	−80.67163
35	24.94153	−80.66370
36	24.94315	−80.65854
37	24.96567	−80.63474
38	24.99620	−80.56513
39	24.99637	−80.56482
40	24.99756	−80.56322
41	24.99919	−80.56088
42	25.00054	−80.56067
43 *	25.00130	−80.56032
44 *	25.00597	−80.55863
45	25.00722	−80.55812
46	25.00786	−80.55769
47	25.00883	−80.55694
48	25.01038	−80.55553
49	25.01590	−80.54977
50	25.01695	−80.54876
51	25.02295	−80.53795
52	25.02304	−80.53783
53	25.02309	−80.53768
54	25.02361	−80.53499
55	25.02687	−80.53021
56	25.03011	−80.52417
57	25.03095	−80.52186
58	25.03179	−80.51954
59	25.03388	−80.51809
60	25.03398	−80.51804
61	25.03409	−80.51801
62	25.03740	−80.51778
63	25.03825	−80.51790
64	25.05836	−80.52178
65	25.06772	−80.49982
66	25.08144	−80.47469
67	25.09063	−80.46820
68	25.09088	−80.46808
69	25.09294	−80.46779
70	25.09387	−80.46704
71	25.12097	−80.44703
72	25.12126	−80.44688

FLORIDA KEYS NATIONAL MARINE SANCTUARY BOUNDARY COORDINATES—Continued

Point	Latitude	Longitude
73	25.12142	−80.44684
74*	25.12214	−80.44683
75*	25.12785	−80.44378
76*	25.12845	−80.44309
77*	25.12878	−80.44084
78	25.12875	−80.44022
79	25.12870	−80.43984
80	25.12834	−80.43776
81	25.12787	−80.43414
82	25.12772	−80.43313
83	25.12739	−80.43078
84	25.12690	−80.42809
85	25.12667	−80.42678
86	25.12815	−80.42335
87	25.12839	−80.42307
88	25.12889	−80.42266
89	25.12942	−80.42242
90	25.12972	−80.42234
91	25.13040	−80.42244
92	25.13126	−80.42273
93*	25.13200	−80.42327
94*	25.14298	−80.42513
95	25.14339	−80.42491
96	25.14359	−80.42472
97	25.14390	−80.42416
98	25.14744	−80.41865
99	25.17698	−80.39366
100	25.17961	−80.39071
101	25.17986	−80.39049
102	25.18009	−80.39037
103*	25.18302	−80.38932
104*	25.18612	−80.39050
105*	25.18637	−80.39084
106*	25.23068	−80.43215
107*	25.23093	−80.43225
108*	25.23170	−80.43239
109*	25.23193	−80.43244
110*	25.23245	−80.43118
111*	25.23533	−80.42929
112*	25.23578	−80.42858
113*	25.24041	−80.43052
114*	25.24081	−80.43041
115*	25.25651	−80.42968
116*	25.25692	−80.43006
117*	25.30013	−80.38710
118*	25.30034	−80.38658
119*	25.37260	−80.31062
120	25.36649	−80.28245
121	25.35144	−80.25593
122	25.34986	−80.25492
123	25.34899	−80.25473
124	25.34633	−80.25384
125	25.34545	−80.25288
126	25.34484	−80.25239
127	25.34370	−80.25134
128	25.34246	−80.25012
129	25.34203	−80.24950
130	25.34151	−80.24892
131	25.34107	−80.24829
132	25.34069	−80.24776
133	25.33956	−80.24736
134	25.33816	−80.24685
135	25.33724	−80.24628
136	25.33661	−80.24578
137	25.33587	−80.24482
138	25.33530	−80.24386
139	25.33531	−80.24328
140	25.33638	−80.21007
141	25.32064	−80.19434
142	25.29144	−80.16515
143	25.30885	−80.15424
144	25.46608	−80.10667

FLORIDA KEYS NATIONAL MARINE SANCTUARY BOUNDARY COORDINATES—Continued

Point	Latitude	Longitude
145	25.48154	−80.10296
146	25.49758	−80.09999
147	25.51415	−80.09664
148	25.52104	−80.09524
149	25.52554	−80.09471
150	25.55760	−80.09125
151	25.57223	−80.09004
152	25.59328	−80.08848
153	25.59972	−80.08808
154	25.60242	−80.08791
155	25.61437	−80.08784
156	25.63198	−80.08743
157	25.64476	−80.08736
158	25.72274	−80.08695
PR1	24.88098	−83.69735
PR2	24.97167	−83.64250
PR3	24.97167	−83.61667
PR4	24.68638	−83.61667
PR5	24.66667	−83.68945
PR6	24.66110	−83.71080
PR7	24.79258	−83.92067
PR8	24.95108	−83.80675
PR9	24.88098	−83.69735
DT1	24.72612	−82.79849
DT2	24.72537	−82.86646
DT3	24.71690	−82.89975
DT4	24.64904	−82.96770
DT5	24.56533	−82.96789
DT6	24.56624	−82.90040
DT7	24.61764	−82.79902
DT8	24.66867	−82.76542
DT9	24.70164	−82.76522
DT10	24.72612	−82.79849

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the sanctuary boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

Appendix B to Subpart P of Part 922—Areas To Be Avoided Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The boundary for the following Area to be Avoided zones begins at Point 1 and continues to each successive point in numerical order until ending at the zone's last point as listed in its specific coordinate table.

ATBA 1

Point	Latitude	Longitude
1	24.37167	−81.71950
2	24.46667	−81.71950
3	24.47833	−81.72500
4	24.49667	−81.71950
5	24.55167	−81.58583
6	24.56000	−81.43333
7	24.63667	−81.11667
8	24.72000	−80.88667
9	24.76833	−80.76917
10	24.85167	−80.61833
11	24.95833	−80.45833
12	25.16500	−80.27000
13	25.40000	−80.15167
14	25.52500	−80.11667
15	25.66167	−80.11417
16	25.75000	−80.10167
17	25.72262	−80.08689
18	25.64500	−80.04500
19	25.36667	−80.05000
20	25.10633	−80.17467
21	24.93950	−80.32100
22	24.63167	−80.78833

ATBA 1—Continued

Point	Latitude	Longitude
23	24.48667	−81.28833
24	24.37167	−81.71950

ATBA 2

Point	Latitude	Longitude
1	24.46583	−81.81084
2	24.38333	−81.89167
3	24.44333	−81.97500
4	24.46250	−81.92834
5	24.48917	−81.89000
6	24.48917	−81.83334
7	24.46583	−81.81084

ATBA 3

Point	Latitude	Longitude
1	24.38854	−82.26357
2	24.39333	−82.46333
3	24.57500	−82.62500
4	24.71667	−82.44167
5	24.63850	−81.90100
6	24.63183	−81.89000
7	24.60250	−81.86300
8	24.57333	−81.84333
9	24.55733	−81.82883
10	24.52000	−81.86833
11	24.47833	−81.94666
12	24.44333	−81.99250
13	24.38333	−82.05833
14	24.38854	−82.26357

ATBA 4

Point	Latitude	Longitude
1	24.53333	−82.89167
2	24.53333	−83.00083
3	24.66167	−83.00083
4	24.76000	−82.90667
5	24.76000	−82.78667
6	24.71333	−82.73167
7	24.65833	−82.73167
8	24.59333	−82.77333
9	24.53333	−82.89167

Appendix C to Subpart P of Part 922—Management Areas Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The boundary for the following Management Area zones begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table.

KEY LARGO MANAGEMENT AREA

Point	Latitude	Longitude
1	24.96750	−80.31889
2	25.02050	−80.39784
3	25.02111	−80.39765
4	25.02349	−80.39596
5	25.02480	−80.39511
6	25.02647	−80.39412
7	25.02835	−80.39311

KEY LARGO MANAGEMENT AREA—Continued

Point	Latitude	Longitude
8	25.03026	−80.39219
9	25.03239	−80.39127
10	25.03437	−80.39054
11	25.03582	−80.39006
12	25.03766	−80.38952
13	25.04131	−80.38859
14	25.04242	−80.38834
15	25.04466	−80.38792
16	25.04654	−80.38767
17	25.04899	−80.38745
18	25.05181	−80.38736
19	25.05367	−80.38740
20	25.05394	−80.38732
21	25.05501	−80.38504
22	25.05674	−80.38186
23	25.05817	−80.37953
24	25.05915	−80.37808
25	25.06050	−80.37585
26	25.06127	−80.37467
27	25.06219	−80.37338
28	25.06343	−80.37103
29	25.06500	−80.36841
30	25.06659	−80.36607
31	25.06791	−80.36430
32	25.06917	−80.36273
33	25.07090	−80.36078
34	25.07161	−80.35932
35	25.07319	−80.35646
36	25.07492	−80.35370
37	25.07627	−80.35170
38	25.07758	−80.34993
39	25.07871	−80.34852
40	25.07988	−80.34715
41	25.08122	−80.34569
42	25.08233	−80.34456
43	25.08376	−80.34320
44	25.08584	−80.34140
45	25.08816	−80.33961
46	25.09008	−80.33827
47	25.09123	−80.33754
48	25.09340	−80.33628
49	25.09508	−80.33461
50	25.09727	−80.33265
51	25.09909	−80.33118
52	25.10065	−80.33003
53	25.10306	−80.32842
54	25.10455	−80.32753
55	25.10675	−80.32633
56	25.10986	−80.32489
57	25.11178	−80.32356
58	25.11340	−80.32254
59	25.11593	−80.32113
60	25.11717	−80.31955
61	25.11860	−80.31788
62	25.12093	−80.31541
63	25.12266	−80.31379
64	25.12400	−80.31262
65	25.12523	−80.31162
66	25.12694	−80.31033
67	25.12887	−80.30900
68	25.13035	−80.30808
69	25.13203	−80.30711
70	25.13443	−80.30588
71	25.13689	−80.30478
72	25.13830	−80.30423
73	25.14048	−80.30347
74	25.14175	−80.30309
75	25.14388	−80.30178
76	25.14505	−80.30112
77	25.14692	−80.30015
78	25.14953	−80.29897
79	25.15236	−80.29789

KEY LARGO MANAGEMENT AREA—Continued

Point	Latitude	Longitude
80	25.15525	−80.29691
81	25.15781	−80.29618
82	25.16003	−80.29567
83	25.16189	−80.29534
84	25.16377	−80.29507
85	25.16640	−80.29484
86	25.16831	−80.29476
87	25.17038	−80.29477
88	25.17167	−80.29483
89	25.17332	−80.29382
90	25.17517	−80.29279
91	25.17672	−80.29201
92	25.17811	−80.29137
93	25.17936	−80.29046
94	25.18113	−80.28928
95	25.18344	−80.28789
96	25.18581	−80.28665
97	25.18754	−80.28585
98	25.18939	−80.28428
99	25.19109	−80.28297
100	25.19284	−80.28174
101	25.19464	−80.28059
102	25.19715	−80.27915
103	25.19887	−80.27828
104	25.20114	−80.27726
105	25.20274	−80.27663
106	25.20410	−80.27526
107	25.20523	−80.27420
108	25.20638	−80.27318
109	25.20756	−80.27221
110	25.21054	−80.26987
111	25.21246	−80.26852
112	25.21408	−80.26749
113	25.21540	−80.26671
114	25.21691	−80.26589
115	25.21947	−80.26464
116	25.22157	−80.26376
117	25.22312	−80.26299
118	25.22521	−80.26208
119	25.22681	−80.26146
120	25.22861	−80.26085
121	25.22973	−80.26014
122	25.23088	−80.25948
123	25.23240	−80.25831
124	25.23381	−80.25731
125	25.23571	−80.25608
126	25.23687	−80.25540
127	25.23879	−80.25310
128	25.24041	−80.25134
129	25.24283	−80.24901
130	25.24477	−80.24735
131	25.24725	−80.24545
132	25.24940	−80.24349
133	25.25105	−80.24211
134	25.25338	−80.24035
135	25.25547	−80.23894
136	25.25694	−80.23804
137	25.25835	−80.23724
138	25.26092	−80.23594
139	25.26355	−80.23480
140	25.26687	−80.23359
141	25.26915	−80.23204
142	25.27098	−80.23093
143	25.27251	−80.23008
144	25.27697	−80.22775
145	25.27997	−80.22644
146	25.28249	−80.22552
147	25.28432	−80.22495
148	25.28642	−80.22274
149	25.28768	−80.22149
150	25.29000	−80.21941
151	25.29197	−80.21783

KEY LARGO MANAGEMENT AREA—Continued

Point	Latitude	Longitude
152	25.29352	−80.21644
153	25.29547	−80.21481
154	25.29748	−80.21329
155	25.29940	−80.21199
156	25.30114	−80.20984
157	25.30329	−80.20751
158	25.30570	−80.20518
159	25.30734	−80.20377
160	25.30980	−80.20185
161	25.31204	−80.20031
162	25.31452	−80.19880
163	25.31588	−80.19805
164	25.31708	−80.19745
165	25.31853	−80.19611
166	25.32064	−80.19434
167	25.29144	−80.16515
168	25.26130	−80.13652
169	25.11806	−80.20139
170	24.96750	−80.31889

LOOE KEY MANAGEMENT AREA

Point	Latitude	Longitude
1	24.53389	−81.43333
2	24.56583	−81.43333
3	24.57083	−81.38333
4	24.53889	−81.38333
5	24.53389	−81.43333

Appendix D to Subpart P of Part 922—National Wildlife Refuges Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

Note: The coordinates in the tables of this appendix marked with an asterisk (*) are not a part of the zone's boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

Key West National Wildlife Refuge

The seaward boundary for the Key West National Wildlife Refuge begins at Point 1 and continues to each successive point in numerical order until ending at Point 5. The inner landward boundary for Key West National Wildlife Refuge is defined by and follows the shoreline at mean high water.

Note: This boundary description only represents the marine portions of the Key West National Wildlife Refuge that fall within the sanctuary. The full Key West National Wildlife Refuge boundary was established by Executive Order 923 in 1908.

KEY WEST NATIONAL WILDLIFE REFUGE

Point	Latitude	Longitude
1	24.66495	−82.16653
2	24.66715	−81.81657
3	24.44728	−81.81653
4	24.44690	−82.16601
5	24.66495	−82.16653

Great White Heron National Wildlife Refuge

The boundary description below only represents the marine portions of the Great White Heron National Wildlife Refuge that fall within the sanctuary. The full Great White Heron National Wildlife Refuge boundary was established by Executive Order 7993 in 1938, with additional islands acquired under the Migratory Bird Conservation Act (16 U.S.C., S. 715).

The Great White Heron National Wildlife Refuge boundary begins approximately 1.6 miles south of Cocoanut Key at Point 1 and continues west to Point 2 and then south to Point 3. From Point 3 the boundary continues west towards Point 4 until it intersects the shoreline at No Name Key. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues to Point 6 and then south towards Point 7 until it intersects the shoreline at Big Pine Key. From this intersection the boundary follows the shoreline generally north and then around to the south and then east until it intersects the line segment formed between Point 8 and Point 9. From this intersection the boundary continues south to Point 9 and then west towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west and then north until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues north to Point 12 and then west towards Point 13 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 14 and Point 15. From this intersection the boundary continues north to Point 15 and then west towards Point 16 until it intersects the shoreline. From this intersection the boundary follows the shoreline north around the northern end of Big Pine Key and then generally south until it intersects the line segment formed between Point 17 and Point 18. From this intersection the boundary continues towards Point 18 until it intersects

the shoreline. From this intersection the boundary follows the shoreline west and then south until it intersects the line segment formed between Point 19 and Point 20. From this intersection the boundary continues west towards Point 20 until it intersects the shoreline at Big Torch Key. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 21 and Point 22. From this intersection the boundary continues north to Point 22 and then west towards Point 23 until it intersects the shoreline. From this intersection the boundary follows the shoreline north around the northern end of Big Torch Key and then generally south until it intersects the line segment formed between Point 24 and Point 25. From this intersection the boundary continues south towards Point 25 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 26 and Point 27. From this intersection the boundary continues south to Point 27 then west to Point 28 and south towards Point 29 until it intersects the shoreline. From this intersection the boundary follows the shoreline until it intersects the line segment formed between Point 30 and Point 31. From this intersection the boundary continues west to Point 31 and then south towards Point 32 until it intersects the shoreline at Cudjoe Key. From this intersection the boundary follows the shoreline west and then east until it intersects the line segment formed between Point 32 and Point 33. From this intersection the boundary continues south towards Point 33 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 34 and Point 35. From this intersection the boundary continues west to Point 35 and then south to Point 36 and west to Point 37 and north to Point 38. From Point 38 the boundary continues west towards Point 39 until it intersects the shoreline at Sugarloaf Key. From this intersection the boundary follows the shoreline around the northern end of Sugarloaf Key until it intersects the line segment formed between Point 40 and Point 41. From this intersection the boundary continues west to Point 41 and then generally SW to each successive point in numerical order to Point 45. From Point 45 the boundary continues south towards Point 46 until it intersects the shoreline at Saddlebunch Keys. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 47 and Point 48. From this intersection the boundary continues towards Point 48 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 48 and Point 49. From this intersection the boundary continues towards Point 49 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 50 and Point 51. From this intersection the boundary continues west to Point 51 and then south towards Point 52 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 53 and Point 54. From this intersection the boundary continues west to Point 54 and then south towards Point 55 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 55 and Point 56. From this intersection the boundary continues south to Point 56 and then west to Point 57 and then south to Point 58. From Point 58 the boundary continues towards Point 59 until it intersects the shoreline at Big Coppitt Key. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 60 and Point 61. From this intersection the boundary continues west to Point 61 and then south towards Point 62 until it intersects the shoreline at Rockland Key. From this intersection the boundary follows the shoreline south and then west until it intersects the line segment formed between Point 63 and Point 64. From this intersection the boundary continues towards Point 64 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 65 and Point 66. From this intersection the boundary continues north to Point 66 and then west towards Point 67 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 67 and Point 68. From this intersection the boundary continues west towards Point 68 until it intersects the shoreline at Channel Key. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 69 and Point 70. From this intersection the boundary continues west to Point 70 and then generally NE to each successive point in numerical order to Point 78. From Point 78 the boundary continues south and then west to each successive point in numerical order ending at Point 81. The inner landward boundary of this National Wildlife Refuge is defined by and follows the shoreline where not already specified.

GREAT WHITE HERON NATIONAL WILDLIFE REFUGE

Point	Latitude	Longitude
1	24.72002	−81.23787
2	24.71978	−81.26930
3	24.70532	−81.26938
4*	24.70505	−81.33922
5*	24.70504	−81.34280
6	24.70502	−81.34800
7*	24.69801	−81.34804
8*	24.69391	−81.34807
9	24.69081	−81.34809
10*	24.69087	−81.35670
11*	24.70579	−81.36417
12	24.71964	−81.36412
13*	24.71976	−81.37785
14*	24.72221	−81.37952
15	24.73455	−81.37969
16*	24.73458	−81.39071
17*	24.72233	−81.39533
18*	24.72180	−81.39532
19*	24.72005	−81.39747
20*	24.72017	−81.43404
21*	24.72197	−81.43521
22	24.73481	−81.43526
23*	24.73478	−81.43997
24*	24.73337	−81.45123
25*	24.72838	−81.45121
26*	24.72109	−81.45119
27	24.72012	−81.45119

GREAT WHITE HERON NATIONAL WILDLIFE REFUGE—Continued

Point	Latitude	Longitude
28	24.71965	−81.49089
29*	24.70513	−81.49086
30*	24.70510	−81.49384
31	24.70498	−81.50701
32*	24.70121	−81.50701
33*	24.69340	−81.50703
34*	24.69042	−81.51572
35	24.69044	−81.52277
36	24.67596	−81.52261
37	24.67582	−81.53856
38	24.69038	−81.53872
39*	24.69045	−81.55392
40*	24.69047	−81.55588
41	24.69053	−81.57072
42	24.67611	−81.57031
43	24.67605	−81.58622
44	24.66152	−81.58615
45	24.66145	−81.60206
46*	24.65367	−81.60210
47*	24.65278	−81.60211
48*	24.65161	−81.60212
49*	24.64975	−81.60213
50*	24.64716	−81.61461
51	24.64715	−81.61790
52*	24.63403	−81.61779
53*	24.63271	−81.62618
54	24.63278	−81.63326
55*	24.62056	−81.63345
56	24.61820	−81.63349
57	24.61820	−81.66690
58	24.60367	−81.66677
59*	24.60365	−81.67007
60*	24.60363	−81.67520
61	24.60359	−81.68266
62*	24.59486	−81.68266
63*	24.58918	−81.69107
64*	24.58905	−81.69613
65*	24.59312	−81.69862
66	24.60374	−81.69868
67*	24.60370	−81.70391
68*	24.60360	−81.72036
69*	24.60359	−81.72386
70	24.60338	−81.81000
71	24.73450	−81.81037
72	24.73433	−81.61816
73	24.82134	−81.61827
74	24.82180	−81.33316
75	24.79245	−81.33308
76	24.79258	−81.23840
77	24.82172	−81.23861
78	24.82103	−81.14278
79	24.73416	−81.14243
80	24.73455	−81.23785
81	24.72002	−81.23787

Personal Watercraft (PWC) Exception Area 1—Key West National Wildlife Refuge

Personal watercraft are allowed within the following area inside Key West National Wildlife Refuge. The boundary for PWC Exception Area 1 begins at Point 1 and continues to each successive point in numerical order until ending at Point 4 in the following coordinate table:

Point	Latitude	Longitude
1	24.52853	−81.81654
2	24.54833	−81.81655
3	24.54298	−81.82584
4	24.52853	−81.81654

PWC Exception Area 2—Great White Heron National Wildlife Refuge

Personal watercraft are allowed within the following area inside Great White Heron National Wildlife Refuge. The area begins just north of No Name Key at Point 1 and continues west towards Point 2 until it intersects the shoreline at No Name Key. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues west to Point 4 then south towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NW then south and then east until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues south to Point 7 and then west towards Point 8 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NW until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues north to Point 10 then east to Point 11 and then south to Point 12 where it ends. The inner landward boundary of this zone is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.70499	−81.33226
2*	24.70505	−81.33922
3*	24.70504	−81.34280
4	24.70502	−81.34800
5*	24.69801	−81.34804
6*	24.69391	−81.34807
7	24.69081	−81.34809
8*	24.69087	−81.35670
9*	24.70579	−81.36417
10	24.71964	−81.36412
11	24.71969	−81.33228
12	24.70499	−81.33226

PWC Exception Area 3—Great White Heron National Wildlife Refuge

Personal watercraft are allowed within the following area inside the Great White Heron National Wildlife Refuge. This area begins on Howe Key at the intersection of the shoreline and the line segment formed by Point 1 and Point 2. From this intersection the boundary continues east towards Point 2 until it intersects the shoreline at Big Pine Key. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west and south until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues west to Point 6 and then north towards Point 7 until it intersects the shoreline at Howe Key. From this intersection the boundary follows the shoreline generally south and east until it intersects the line segment formed between Point 8 and Point 9 where it ends. The inner landward boundary of this zone is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1*	24.73472	−81.40463
2*	24.73464	−81.39898
3*	24.72233	−81.39533
4*	24.72180	−81.39532
5*	24.72005	−81.39747
6	24.72025	−81.41181
7*	24.73480	−81.41169
8*	24.73472	−81.40463
9*	24.73464	−81.39898

PWC Exception Area 4—Great White Heron National Wildlife Refuge

Personal watercraft are allowed within the following area inside the Great White Heron National Wildlife Refuge. This area begins just west of Big Torch Key at Point 1 and continues west to Point 2 and then north towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues north to Point 5 and then east towards Point 6 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment between Point 6 and Point 7. From this intersection the boundary continues towards Point 7 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues towards Point 8 until it intersects the shoreline at Big Torch Key. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues south towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues south to Point 12 where it ends. The inner landward boundary of this zone is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.72012	−81.45119
2	24.72024	−81.45910
3*	24.72739	−81.45914
4*	24.72850	−81.45915

Point	Latitude	Longitude
5	24.73470	−81.45913
6*	24.73472	−81.45545
7*	24.73472	−81.45506
8*	24.73474	−81.45214
9*	24.73337	−81.45123
10*	24.72838	−81.45121
11*	24.72109	−81.45119
12	24.72012	−81.45119

PWC Exception Area 5—Great White Heron National Wildlife Refuge

Personal watercraft are allowed within the following area inside the Great White Heron National Wildlife Refuge. This area begins just NW of Halfmoon Key at Point 1 and continues south to Point 2 and then west towards Point 3 until it intersects the shoreline at Big Coppitt Key. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues west to Point 5 and then north towards Point 6 until it intersects the shoreline at Duck Key. From this intersection the boundary follows the shoreline SW and then NW around Duck Key until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues east to Point 8 where it ends. The inner landward boundary of this zone is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.61820	−81.66690
2	24.60367	−81.66677
3*	24.60365	−81.67007
4*	24.60363	−81.67520
5	24.60359	−81.68266
6*	24.61716	−81.68207
7*	24.61821	−81.68201
8	24.61820	−81.66690

PWC Exception Area 6—Great White Heron National Wildlife Refuge

Personal watercraft are allowed within the following area inside the Great White Heron National Wildlife Refuge. This area begins just north of Rockland Key at Point 1. From Point 1 the boundary continues south towards Point 2 until it intersects the shoreline at Rockland Key. From this intersection the boundary follows the shoreline generally south and west until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues west towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues north to Point 6 and then east to Point 7 where it ends. The inner landward boundary of this zone is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.60359	−81.68266
2*	24.59486	−81.68266
3*	24.58918	−81.69107
4*	24.58905	−81.69613
5*	24.59312	−81.69862
6	24.60374	−81.69868
7	24.60359	−81.68266

Appendix E to Subpart P of Part 922—Wildlife Management Areas Boundary Coordinates and Access and Use Restrictions

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The access and use restriction for each zone is listed under the zone name and set forth at 15 CFR 922.164(d).

The boundary for the following Wildlife Management Areas begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table.

Ballast and Man Keys Flats WMA 1

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.52370	−81.94818
2	24.52568	−81.94852
3	24.53128	−81.95063
4	24.53197	−81.95088
5	24.53253	−81.95179
6	24.53296	−81.95226
7	24.53342	−81.95250

IDLE SPEED NO WAKE—Continued

Point	Latitude	Longitude
8	24.53515	−81.95235
9	24.53455	−81.93151
10	24.52213	−81.93124
11	24.52370	−81.94818

Ballast and Man Keys Flats WMA 2

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.53526	−81.95645
2	24.53513	−81.95653
3	24.53507	−81.95660
4	24.53466	−81.95711
5	24.53398	−81.95777
6	24.53361	−81.95844
7	24.53336	−81.95918
8	24.53296	−81.95969
9	24.53242	−81.95984
10	24.53195	−81.95987
11	24.53135	−81.95991
12	24.53059	−81.96006
13	24.52984	−81.96056
14	24.52911	−81.96119
15	24.52803	−81.96208
16	24.52728	−81.96270
17	24.52645	−81.96261
18	24.52513	−81.96213
19	24.52499	−81.96205
20	24.52614	−81.96561
21	24.53545	−81.96303
22	24.53526	−81.95645

Ballast and Man Keys Flats WMA 3

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.53519	−81.95404
2	24.53482	−81.95413
3	24.53373	−81.95423
4	24.53298	−81.95422
5	24.53266	−81.95348
6	24.53234	−81.95281
7	24.53192	−81.95214
8	24.53153	−81.95139
9	24.53085	−81.95099
10	24.53006	−81.95075
11	24.52913	−81.95055
12	24.52806	−81.95035
13	24.52705	−81.95038
14	24.52630	−81.95049
15	24.52522	−81.95083
16	24.52400	−81.95136
17	24.52489	−81.96102
18	24.52510	−81.96119
19	24.52632	−81.96187
20	24.52710	−81.96176
21	24.52782	−81.96125
22	24.52858	−81.96083
23	24.52937	−81.96021
24	24.53002	−81.95986
25	24.53131	−81.95944
26	24.53214	−81.95929
27	24.53278	−81.95925
28	24.53307	−81.95871
29	24.53340	−81.95777

IDLE SPEED NO WAKE—Continued

Point	Latitude	Longitude
30	24.53430	−81.95707
31	24.53503	−81.95625
32	24.53517	−81.95610
33	24.53525	−81.95601
34	24.53519	−81.95404

Channel Key Banks WMA 1

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.81429	−80.90823
2	24.81441	−80.91337
3	24.83992	−80.91123
4	24.85246	−80.89969
5	24.85295	−80.89489
6	24.85097	−80.88579
7	24.85682	−80.88193
8	24.87021	−80.88591
9	24.87054	−80.88345
10	24.85033	−80.87681
11	24.84612	−80.89420
12	24.84127	−80.90120
13	24.82315	−80.89502
14	24.82025	−80.89590
15	24.82013	−80.89894
16	24.82623	−80.90103
17	24.82468	−80.90508
18	24.81429	−80.90823

Marquesas Keys Turtle WMA

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.55110	−82.25453
2	24.57496	−82.25476
2	24.57546	−82.19300
4	24.55156	−82.19305
5	24.55110	−82.25453

Pelican Shoal WMA

NO ENTRY

Point	Latitude	Longitude
1	24.50252	−81.63114
2	24.50206	−81.63075
3	24.50164	−81.63064
4	24.50147	−81.63068
5	24.50132	−81.63078
6	24.50122	−81.63094
7	24.50118	−81.63113
8	24.50120	−81.63126
9	24.50135	−81.63162
10	24.50158	−81.63188
11	24.50193	−81.63207
12	24.50223	−81.63212
13	24.50245	−81.63212
14	24.50259	−81.63207
15	24.50273	−81.63196
16	24.50282	−81.63179
17	24.50284	−81.63160
18	24.50280	−81.63141

NO ENTRY—Continued

Point	Latitude	Longitude
19	24.50269	−81.63126
20	24.50252	−81.63114

Pulley Ridge WMA

NO ANCHOR

Point	Latitude	Longitude
1	24.88098	−83.69735
2	24.97167	−83.64250
3	24.97167	−83.61667
4	24.68638	−83.61667
5	24.66667	−83.68945
6	24.66110	−83.71080
7	24.79258	−83.92067
8	24.95108	−83.80675
9	24.88098	−83.69735

Red Bay Bank WMA

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.75323	−81.15290
2	24.75432	−81.17150
3	24.76932	−81.18551
4	24.77090	−81.17929
5	24.76124	−81.16976
6	24.75728	−81.15075
7	24.75060	−81.13581
8	24.74698	−81.13746
9	24.75323	−81.15290

Snake Creek WMA 1

NO MOTOR

Point	Latitude	Longitude
1	24.94965	−80.58774
2	24.94895	−80.58751
3	24.94821	−80.58710
4	24.94790	−80.58685
5	24.94761	−80.58643
6	24.94695	−80.58520
7	24.94676	−80.58495
8	24.94554	−80.58387
9	24.94439	−80.58404
10	24.94374	−80.58407
11	24.94327	−80.58395
12	24.94236	−80.58331
13	24.94151	−80.58182
14	24.94114	−80.58139
15	24.94047	−80.58102
16	24.93612	−80.58770
17	24.94352	−80.59103
18	24.94840	−80.59079
19	24.94965	−80.58774

Snake Creek WMA 2

NO MOTOR

Point	Latitude	Longitude
1	24.94824	−80.59116
2	24.94368	−80.59135
3	24.94737	−80.59330
4	24.94824	−80.59116

Snake Creek WMA 3

NO MOTOR

Point	Latitude	Longitude
1	24.94725	−80.59360
2	24.93974	−80.58991
3	24.94570	−80.59761
4	24.94725	−80.59360

Snake Creek WMA 4

NO MOTOR

Point	Latitude	Longitude
1	24.94540	−80.59785
2	24.93942	−80.58980
3	24.93584	−80.58814
4	24.93424	−80.59059
5	24.93594	−80.59222
6	24.93666	−80.59207
7	24.93715	−80.59183
8	24.93750	−80.59175
9	24.93772	−80.59177
10	24.93806	−80.59181
11	24.93873	−80.59213
12	24.93904	−80.59239
13	24.93919	−80.59258
14	24.93934	−80.59288
15	24.93943	−80.59321
16	24.93972	−80.59488
17	24.93972	−80.59536
18	24.93981	−80.59567
19	24.93981	−80.59581
20	24.93994	−80.59618
21	24.93996	−80.59675
22	24.93985	−80.59760
23	24.93984	−80.59972
24	24.93994	−80.60078
25	24.94007	−80.60166
26	24.94020	−80.60233
27	24.94046	−80.60274
28	24.94061	−80.60290
29	24.94082	−80.60298
30	24.94111	−80.60335
31	24.94540	−80.59785

Tortugas Bank WMA

NO ANCHOR BY VESSELS >50M LENGTH

Point	Latitude	Longitude
1	24.53333	−83.00080
2	24.61666	−83.10000
3	24.65000	−83.10000
4	24.65000	−83.00080
5	24.53333	−83.00080

Western Dry Rocks WMA

FROM APRIL 1 TO JULY 31, CONTINUOUS TRANSIT WITHOUT INTERRUPTION AND NO ANCHOR

Point	Latitude	Longitude
1	24.42822	−81.92479
2	24.42802	−81.95011
3	24.43694	−81.95018
4	24.43712	−81.92488
5	24.42822	−81.92479

The seaward boundary for the following Wildlife Management Areas begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table. The inner landward boundary for each individual zone below is defined by and follows the shoreline at mean high water.

Archer Key WMA

NO ANCHOR

Point	Latitude	Longitude
1	24.56410	−81.88557
2	24.56204	−81.88243
3	24.55982	−81.88302
4	24.55672	−81.88773
5	24.55748	−81.88907
6	24.55951	−81.89267
7	24.56246	−81.89424
8	24.56347	−81.89323
9	24.56410	−81.88557

Ashbey-Horseshoe Key WMA

NO ENTRY

Point	Latitude	Longitude
1	24.91328	−80.65696
2	24.91059	−80.65764
3	24.91142	−80.66045
4	24.91414	−80.65961
5	24.91328	−80.65696

Bay Keys WMA 1

NO MOTOR

Point	Latitude	Longitude
1	24.63604	−81.76179
2	24.63575	−81.76133
3	24.63530	−81.76112
4	24.63469	−81.76077
5	24.63400	−81.76062
6	24.63310	−81.76065
7	24.63218	−81.76082
8	24.63178	−81.76125
9	24.63111	−81.76203
10	24.63071	−81.76286
11	24.63099	−81.76382
12	24.63123	−81.76472
13	24.63160	−81.76550
14	24.63204	−81.76629
15	24.63289	−81.76629
16	24.63353	−81.76601
17	24.63416	−81.76584
18	24.63511	−81.76579
19	24.63559	−81.76530
20	24.63589	−81.76457
21	24.63584	−81.76399
22	24.63603	−81.76353

NO MOTOR—Continued

Point	Latitude	Longitude
23	24.63613	−81.76319
24	24.63622	−81.76258
25	24.63604	−81.76179

Bay Keys WMA 2

NO MOTOR

Point	Latitude	Longitude
1	24.63560	−81.77521
2	24.63493	−81.77494
3	24.63452	−81.77470
4	24.63414	−81.77460
5	24.63384	−81.77461
6	24.63364	−81.77467
7	24.63323	−81.77490
8	24.63302	−81.77509
9	24.63288	−81.77531
10	24.63277	−81.77576
11	24.63279	−81.77619
12	24.63322	−81.77719
13	24.63355	−81.77758
14	24.63378	−81.77774
15	24.63402	−81.77784
16	24.63423	−81.77788
17	24.63444	−81.77786
18	24.63484	−81.77774
19	24.63549	−81.77748
20	24.63573	−81.77733
21	24.63591	−81.77714
22	24.63595	−81.77709
23	24.63610	−81.77691
24	24.63620	−81.77672
25	24.63621	−81.77668
26	24.63627	−81.77643
27	24.63627	−81.77619
28	24.63620	−81.77588
29	24.63607	−81.77561
30	24.63585	−81.77536
31	24.63560	−81.77521

Big Mullet Key WMA

NO MOTOR

Point	Latitude	Longitude
1	24.58096	−81.91817
2	24.58090	−81.91758
3	24.58080	−81.91723
4	24.58051	−81.91671
5	24.58029	−81.91649
6	24.58001	−81.91630
7	24.57930	−81.91618
8	24.57897	−81.91606
9	24.57803	−81.91612
10	24.57730	−81.91636
11	24.57690	−81.91667
12	24.57677	−81.91683
13	24.57659	−81.91714
14	24.57647	−81.91762
15	24.57650	−81.91818
16	24.57665	−81.91856
17	24.57690	−81.91886
18	24.57758	−81.91929
19	24.57757	−81.91952
20	24.57761	−81.91975

NO MOTOR—Continued

Point	Latitude	Longitude
21	24.57793	−81.92047
22	24.57863	−81.92131
23	24.57887	−81.92147
24	24.57917	−81.92155
25	24.57962	−81.92151
26	24.58006	−81.92128
27	24.58042	−81.92092
28	24.58068	−81.92051
29	24.58079	−81.92015
30	24.58106	−81.91976
31	24.58116	−81.91940
32	24.58112	−81.91861
33	24.58096	−81.91817

Channel Key Banks WMA 2

IDLE SPEED NO WAKE

Point	Latitude	Longitude
1	24.81164	−80.90655
2	24.80309	−80.90109
3	24.79341	−80.90382
4	24.78363	−80.91293
5	24.79325	−80.91988
6	24.79879	−80.91468
7	24.81171	−80.91360
8	24.81164	−80.90655

Cottrell Key WMA

NO ENTRY

Point	Latitude	Longitude
1	24.60377	−81.91824
2	24.60300	−81.91882
3	24.60285	−81.91909
4	24.60262	−81.91937
5	24.60197	−81.91958
6	24.60109	−81.92023
7	24.60095	−81.92045
8	24.60061	−81.92084
9	24.60034	−81.92138
10	24.60020	−81.92193
11	24.59996	−81.92219
12	24.59984	−81.92238
13	24.59972	−81.92274
14	24.59969	−81.92298
15	24.59982	−81.92389
16	24.60029	−81.92486
17	24.60069	−81.92516
18	24.60112	−81.92528
19	24.60144	−81.92526
20	24.60176	−81.92512
21	24.60209	−81.92487
22	24.60271	−81.92470
23	24.60296	−81.92458
24	24.60317	−81.92441
25	24.60365	−81.92457
26	24.60402	−81.92463
27	24.60463	−81.92461
28	24.60482	−81.92465
29	24.60514	−81.92463
30	24.60537	−81.92456
31	24.60556	−81.92445
32	24.60584	−81.92407
33	24.60612	−81.92403
34	24.60647	−81.92408

NO ENTRY—Continued

Point	Latitude	Longitude
35	24.60701	−81.92405
36	24.60734	−81.92386
37	24.60753	−81.92358
38	24.60764	−81.92319
39	24.60765	−81.92284
40	24.60759	−81.92245
41	24.60770	−81.92202
42	24.60765	−81.92152
43	24.60752	−81.92112
44	24.60734	−81.92085
45	24.60652	−81.92024
46	24.60646	−81.92009
47	24.60649	−81.91955
48	24.60627	−81.91899
49	24.60567	−81.91844
50	24.60534	−81.91826
51	24.60455	−81.91806
52	24.60430	−81.91808
53	24.60377	−81.91824

Crane Key WMA

NO ENTRY

Point	Latitude	Longitude
1	24.75715	−81.51346
2	24.75651	−81.51279
3	24.75602	−81.51237
4	24.75603	−81.51177
5	24.75562	−81.51127
6	24.75527	−81.51098
7	24.75436	−81.51080
8	24.75327	−81.51102
9	24.75218	−81.51170
10	24.75169	−81.51339
11	24.75232	−81.51475
12	24.75330	−81.51486
13	24.75392	−81.51468
14	24.75491	−81.51549
15	24.75599	−81.51582
16	24.75709	−81.51581
17	24.75748	−81.51526
18	24.75753	−81.51437
19	24.75715	−81.51346

Dove and Rodriguez Keys WMA

NO MOTOR

Point	Latitude	Longitude
1	25.04935	−80.43991
2	25.04375	−80.45695
3	25.04506	−80.47474
4	25.04718	−80.47836
5	25.05116	−80.47513
6	25.05257	−80.46613
7	25.05639	−80.44296
8	25.04935	−80.43991

East Bahia Honda Key WMA

NO MOTOR

Point	Latitude	Longitude
1	24.78258	−81.22843
2	24.78185	−81.22775
3	24.78061	−81.22719
4	24.77864	−81.22625
5	24.77759	−81.22590
6	24.77676	−81.22560
7	24.77592	−81.22468
8	24.77522	−81.22475
9	24.77521	−81.22593
10	24.77468	−81.22756
11	24.77484	−81.22917
12	24.77600	−81.22990
13	24.77704	−81.23140
14	24.77783	−81.23134
15	24.77834	−81.23113
16	24.77909	−81.23108
17	24.77950	−81.23098
18	24.78013	−81.23124
19	24.78055	−81.23169
20	24.78069	−81.23242
21	24.78138	−81.23261
22	24.78257	−81.23189
23	24.78284	−81.23101
24	24.78284	−81.22957
25	24.78258	−81.22843

East Content Keys and Upper Harbor Key Flats WMA 1

NO ENTRY

Point	Latitude	Longitude
1	24.81100	−81.44379
2	24.81136	−81.44433
3	24.81144	−81.44439
4	24.81175	−81.44454
5	24.81239	−81.44470
6	24.81287	−81.44470
7	24.81356	−81.44459
8	24.81381	−81.44449
9	24.81402	−81.44431
10	24.81418	−81.44400
11	24.81425	−81.44356
12	24.81424	−81.44332
13	24.81419	−81.44309
14	24.81418	−81.44216
15	24.81414	−81.44176
16	24.81408	−81.44144
17	24.81401	−81.44128
18	24.81370	−81.44076
19	24.81351	−81.44056
20	24.81323	−81.44040
21	24.81294	−81.44033
22	24.81273	−81.44033
23	24.81235	−81.44042
24	24.81196	−81.44062
25	24.81160	−81.44088
26	24.81130	−81.44114
27	24.81099	−81.44147
28	24.81085	−81.44169
29	24.81075	−81.44190
30	24.81067	−81.44224
31	24.81067	−81.44252
32	24.81070	−81.44278
33	24.81100	−81.44379

Happy Jack Key WMA

NO ENTRY

Point	Latitude	Longitude
1	24.69922	−81.56774
2	24.69900	−81.56754
3	24.69868	−81.56741
4	24.69841	−81.56738
5	24.69810	−81.56746
6	24.69765	−81.56771
7	24.69732	−81.56797
8	24.69715	−81.56823
9	24.69707	−81.56861
10	24.69708	−81.56887
11	24.69717	−81.56917
12	24.69732	−81.56940
13	24.69758	−81.56967
14	24.69783	−81.56983
15	24.69846	−81.57007
16	24.69872	−81.57023
17	24.69901	−81.57031
18	24.69922	−81.57030
19	24.69938	−81.57026
20	24.69968	−81.57008
21	24.69989	−81.56980
22	24.69996	−81.56962
23	24.70000	−81.56939
24	24.70001	−81.56918
25	24.69998	−81.56895
26	24.69977	−81.56838
27	24.69961	−81.56814
28	24.69932	−81.56791
29	24.69922	−81.56774

Horseshoe Keys WMA

NO ENTRY

Point	Latitude	Longitude
1	24.78282	−81.29316
2	24.78271	−81.29266
3	24.78160	−81.29255
4	24.78133	−81.29209
5	24.78055	−81.29126
6	24.77962	−81.29059
7	24.77887	−81.29017
8	24.77867	−81.28991
9	24.77840	−81.28970
10	24.77820	−81.28961
11	24.77800	−81.28958
12	24.77817	−81.28908
13	24.77816	−81.28867
14	24.77804	−81.28833
15	24.77792	−81.28814
16	24.77774	−81.28746
17	24.77751	−81.28715
18	24.77734	−81.28700
19	24.77700	−81.28683
20	24.77679	−81.28678
21	24.77601	−81.28692
22	24.77585	−81.28665
23	24.77530	−81.28600
24	24.77512	−81.28588
25	24.77489	−81.28582
26	24.77464	−81.28562
27	24.77444	−81.28553
28	24.77423	−81.28550
29	24.77395	−81.28552
30	24.77375	−81.28560
31	24.77357	−81.28573
32	24.77316	−81.28561
33	24.77291	−81.28560
34	24.77291	−81.28526

NO ENTRY—Continued

Point	Latitude	Longitude
35	24.77278	−81.28494
36	24.77249	−81.28453
37	24.77209	−81.28425
38	24.77188	−81.28420
39	24.77125	−81.28419
40	24.77093	−81.28432
41	24.77053	−81.28436
42	24.77029	−81.28448
43	24.77039	−81.28374
44	24.77011	−81.28284
45	24.76971	−81.28267
46	24.76963	−81.28273
47	24.76939	−81.28261
48	24.76804	−81.28243
49	24.76783	−81.28248
50	24.76760	−81.28261
51	24.76727	−81.28254
52	24.76701	−81.28259
53	24.76665	−81.28280
54	24.76649	−81.28295
55	24.76635	−81.28320
56	24.76613	−81.28400
57	24.76610	−81.28423
58	24.76612	−81.28446
59	24.76638	−81.28521
60	24.76764	−81.28733
61	24.76778	−81.28748
62	24.76789	−81.28783
63	24.76793	−81.28817
64	24.76821	−81.28889
65	24.76831	−81.28999
66	24.76866	−81.29104
67	24.76910	−81.29164
68	24.76935	−81.29183
69	24.76999	−81.29247
70	24.77012	−81.29286
71	24.77046	−81.29327
72	24.77067	−81.29344
73	24.77099	−81.29354
74	24.77134	−81.29408
75	24.77163	−81.29431
76	24.77186	−81.29461
77	24.77216	−81.29485
78	24.77316	−81.29517
79	24.77343	−81.29514
80	24.77383	−81.29497
81	24.77417	−81.29510
82	24.77454	−81.29507
83	24.77448	−81.29520
84	24.77557	−81.29723
85	24.77572	−81.29705
86	24.77606	−81.29682
87	24.77624	−81.29658
88	24.77638	−81.29652
89	24.77678	−81.29666
90	24.77700	−81.29664
91	24.77720	−81.29657
92	24.77740	−81.29678
93	24.77764	−81.29663
94	24.77779	−81.29650
95	24.77797	−81.29623
96	24.77830	−81.29587
97	24.77835	−81.29572
98	24.77837	−81.29537
99	24.77842	−81.29532
100	24.77871	−81.29546
101	24.77898	−81.29551
102	24.78047	−81.29525
103	24.78078	−81.29510
104	24.78111	−81.29488
105	24.78170	−81.29405
106	24.78281	−81.29406

NO ENTRY—Continued

Point	Latitude	Longitude
107	24.78290	−81.29384
108	24.78293	−81.29361
109	24.78290	−81.29337
110	24.78282	−81.29316

Howe Key Mangrove WMA

NO ENTRY

Point	Latitude	Longitude
1	24.77266	−81.43359
2	24.77228	−81.43272
3	24.77178	−81.43246
4	24.77106	−81.43234
5	24.77040	−81.43278
6	24.77026	−81.43410
7	24.77044	−81.43557
8	24.77101	−81.43616
9	24.77192	−81.43662
10	24.77300	−81.43639
11	24.77337	−81.43584
12	24.77338	−81.43524
13	24.77303	−81.43477
14	24.77281	−81.43429
15	24.77266	−81.43359

Little Mullet Key WMA

NO ENTRY

Point	Latitude	Longitude
1	24.58361	−81.94891
2	24.58321	−81.94826
3	24.58295	−81.94794
4	24.58272	−81.94778
5	24.58224	−81.94762
6	24.58199	−81.94762
7	24.58178	−81.94768
8	24.58151	−81.94787
9	24.58070	−81.94817
10	24.58033	−81.94850
11	24.58014	−81.94882
12	24.58006	−81.94904
13	24.58005	−81.94974
14	24.57994	−81.94996
15	24.57990	−81.95019
16	24.57991	−81.95113
17	24.58000	−81.95160
18	24.58016	−81.95197
19	24.58040	−81.95240
20	24.58067	−81.95266
21	24.58117	−81.95292
22	24.58145	−81.95297
23	24.58167	−81.95295
24	24.58217	−81.95278
25	24.58307	−81.95243
26	24.58326	−81.95232
27	24.58342	−81.95214
28	24.58356	−81.95190
29	24.58375	−81.95132
30	24.58378	−81.95090
31	24.58384	−81.95059
32	24.58388	−81.95008
33	24.58384	−81.94970
34	24.58373	−81.94926
35	24.58361	−81.94891

Little Pine Key Mangrove WMA

NO ENTRY

Point	Latitude	Longitude
1	24.75670	−81.34069
2	24.75666	−81.33996
3	24.75632	−81.33942
4	24.75569	−81.33901
5	24.75502	−81.33900
6	24.75434	−81.33963
7	24.75372	−81.34056
8	24.75333	−81.34189
9	24.75390	−81.34298
10	24.75431	−81.34336
11	24.75492	−81.34342
12	24.75534	−81.34361
13	24.75604	−81.34380
14	24.75641	−81.34362
15	24.75700	−81.34347
16	24.75723	−81.34325
17	24.75745	−81.34263
18	24.75748	−81.34190
19	24.75722	−81.34130
20	24.75689	−81.34101
21	24.75674	−81.34094
22	24.75670	−81.34069

Marquesas Keys WMA 1

NO ENTRY

Point	Latitude	Longitude
1	24.57552	−82.14685
2	24.57554	−82.14726
3	24.57569	−82.14771
4	24.57599	−82.14805
5	24.57633	−82.14822
6	24.57692	−82.14822
7	24.57725	−82.14811
8	24.57756	−82.14783
9	24.57774	−82.14742
10	24.57778	−82.14695
11	24.57764	−82.14651
12	24.57722	−82.14600
13	24.57688	−82.14583
14	24.57645	−82.14584
15	24.57595	−82.14613
16	24.57566	−82.14644
17	24.57552	−82.14685

Marquesas Key WMA 2

NO ENTRY

Point	Latitude	Longitude
1	24.57633	−82.14964
2	24.57590	−82.14952
3	24.57549	−82.14958
4	24.57519	−82.14976
5	24.57488	−82.14980
6	24.57459	−82.14995
7	24.57423	−82.15031
8	24.57391	−82.15098
9	24.57381	−82.15130
10	24.57236	−82.15268
11	24.57235	−82.15295
12	24.57246	−82.15366
13	24.57260	−82.15397

NO ENTRY—Continued

Point	Latitude	Longitude
14	24.57279	−82.15417
15	24.57299	−82.15427
16	24.57331	−82.15435
17	24.57361	−82.15434
18	24.57381	−82.15426
19	24.57554	−82.15273
20	24.57580	−82.15233
21	24.57630	−82.15195
22	24.57652	−82.15172
23	24.57687	−82.15115
24	24.57697	−82.15068
25	24.57695	−82.15030
26	24.57684	−82.15003
27	24.57668	−82.14983
28	24.57633	−82.14964

Marquesas Keys WMA 3

NO ENTRY

Point	Latitude	Longitude
1	24.56599	−82.15858
2	24.56647	−82.15876
3	24.56674	−82.15878
4	24.56704	−82.15871
5	24.56723	−82.15860
6	24.56748	−82.15837
7	24.56775	−82.15788
8	24.56792	−82.15724
9	24.56783	−82.15642
10	24.56775	−82.15620
11	24.56754	−82.15590
12	24.56738	−82.15574
13	24.56719	−82.15564
14	24.56667	−82.15555
15	24.56571	−82.15574
16	24.56532	−82.15600
17	24.56510	−82.15638
18	24.56504	−82.15664
19	24.56503	−82.15697
20	24.56511	−82.15735
21	24.56525	−82.15770
22	24.56554	−82.15821
23	24.56599	−82.15858

Marquesas Keys WMA 4

NO ENTRY

Point	Latitude	Longitude
1	24.55340	−82.13516
2	24.55248	−82.13464
3	24.55170	−82.13506
4	24.55169	−82.13633
5	24.55215	−82.13727
6	24.55300	−82.13727
7	24.55362	−82.13677
8	24.55378	−82.13566
9	24.55340	−82.13516

Northeast Tarpon Belly Keys WMA

NO MOTOR

Point	Latitude	Longitude
1	24.73167	−81.50581
2	24.73095	−81.50581
3	24.73060	−81.50606
4	24.73044	−81.50671
5	24.73042	−81.50717
6	24.73047	−81.50759
7	24.73064	−81.50789
8	24.73090	−81.50815
9	24.73114	−81.50851
10	24.73128	−81.50877
11	24.73137	−81.50897
12	24.73181	−81.50900
13	24.73207	−81.50902
14	24.73238	−81.50898
15	24.73262	−81.50880
16	24.73275	−81.50868
17	24.73290	−81.50854
18	24.73294	−81.50821
19	24.73293	−81.50769
20	24.73289	−81.50723
21	24.73278	−81.50707
22	24.73267	−81.50689
23	24.73252	−81.50663
24	24.73232	−81.50622
25	24.73205	−81.50587
26	24.73167	−81.50581

Pelican Key WMA

NO ENTRY

Point	Latitude	Longitude
1	25.09429	−80.45566
2	25.09324	−80.45404
3	25.09202	−80.45437
4	25.08935	−80.45648
5	25.09236	−80.45738
6	25.09338	−80.45711
7	25.09429	−80.45566

Pigeon Key WMA

NO ENTRY

Point	Latitude	Longitude
1	25.05874	−80.50884
2	25.05365	−80.50892
3	25.05367	−80.51362
4	25.05876	−80.51361
5	25.05874	−80.50884

Snipe Keys WMA 1

NO ENTRY

Point	Latitude	Longitude
1	24.68464	−81.67036
2	24.68437	−81.66977
3	24.68443	−81.66914
4	24.68456	−81.66873
5	24.68463	−81.66823
6	24.68472	−81.66743
7	24.68456	−81.66699

NO ENTRY—Continued

Point	Latitude	Longitude
8	24.68443	−81.66677
9	24.68429	−81.66655
10	24.68370	−81.66644
11	24.68300	−81.66677
12	24.68246	−81.66724
13	24.68208	−81.66778
14	24.68198	−81.66874
15	24.68216	−81.66928
16	24.68249	−81.66978
17	24.68255	−81.67000
18	24.68249	−81.67027
19	24.68216	−81.67057
20	24.68211	−81.67118
21	24.68213	−81.67210
22	24.68268	−81.67287
23	24.68338	−81.67292
24	24.68396	−81.67280
25	24.68445	−81.67252
26	24.68488	−81.67219
27	24.68506	−81.67173
28	24.68511	−81.67140
29	24.68504	−81.67106
30	24.68499	−81.67092
31	24.68464	−81.67036

Tavernier Key WMA 1

NO MOTOR AND NO ANCHOR

Point	Latitude	Longitude
1	25.00309	−80.49276
2	24.99672	−80.48946
3	24.99390	−80.49587
4	24.98732	−80.51278
5	24.99099	−80.52419
6	24.99283	−80.52588
7	24.99646	−80.52861
8	24.99898	−80.52879
9	24.99885	−80.52771
10	24.99856	−80.52683
11	24.99823	−80.52632
12	24.99713	−80.52483
13	24.99687	−80.52417
14	24.99678	−80.52373
15	24.99658	−80.52314
16	24.99631	−80.52256
17	24.99619	−80.52227
18	24.99625	−80.52149
19	24.99679	−80.52019
20	24.99562	−80.51942
21	25.00309	−80.49276

Torch Key Mangroves WMA 1

NO ENTRY

Point	Latitude	Longitude
1	24.74240	−81.46950
2	24.74188	−81.46907
3	24.74113	−81.46884
4	24.74050	−81.46898
5	24.73993	−81.46952
6	24.73970	−81.47021
7	24.73979	−81.47084
8	24.74002	−81.47115
9	24.74090	−81.47141

NO ENTRY—Continued

Point	Latitude	Longitude
10	24.74162	−81.47180
11	24.74189	−81.47180
12	24.74223	−81.47173
13	24.74241	−81.47161
14	24.74259	−81.47116
15	24.74268	−81.47055
16	24.74276	−81.46996
17	24.74240	−81.46950

Torch Key Mangroves WMA 2

NO ENTRY

Point	Latitude	Longitude
1	24.73398	−81.47187
2	24.73345	−81.47166
3	24.73300	−81.47159
4	24.73253	−81.47185
5	24.73232	−81.47243
6	24.73221	−81.47312
7	24.73229	−81.47375
8	24.73260	−81.47403
9	24.73294	−81.47415
10	24.73319	−81.47420
11	24.73341	−81.47431
12	24.73373	−81.47436
13	24.73420	−81.47412
14	24.73432	−81.47386
15	24.73462	−81.47313
16	24.73458	−81.47252
17	24.73436	−81.47211
18	24.73398	−81.47187

Water Key Mangroves WMA 1

NO ENTRY

Point	Latitude	Longitude
1	24.74854	−81.34645
2	24.74837	−81.34611
3	24.74828	−81.34592
4	24.74790	−81.34566
5	24.74774	−81.34520
6	24.74755	−81.34494
7	24.74724	−81.34456
8	24.74672	−81.34442
9	24.74625	−81.34448
10	24.74571	−81.34494
11	24.74559	−81.34543
12	24.74557	−81.34602
13	24.74565	−81.34633
14	24.74593	−81.34659
15	24.74636	−81.34677
16	24.74659	−81.34683
17	24.74676	−81.34706
18	24.74687	−81.34741
19	24.74702	−81.34773
20	24.74733	−81.34796
21	24.74746	−81.34794
22	24.74754	−81.34799
23	24.74762	−81.34816
24	24.74771	−81.34824
25	24.74790	−81.34858
26	24.74810	−81.34869
27	24.74834	−81.34871
28	24.74860	−81.34874
29	24.74886	−81.34863

NO ENTRY—Continued

Point	Latitude	Longitude
30	24.74904	−81.34853
31	24.74914	−81.34833
32	24.74924	−81.34808
33	24.74933	−81.34778
34	24.74931	−81.34735
35	24.74921	−81.34685
36	24.74883	−81.34649
37	24.74854	−81.34645

Water Key Mangroves WMA 2

NO ENTRY

Point	Latitude	Longitude
1	24.74448	−81.34500
2	24.74448	−81.34460
3	24.74448	−81.34437
4	24.74433	−81.34388
5	24.74392	−81.34358
6	24.74322	−81.34334
7	24.74260	−81.34305
8	24.74211	−81.34317
9	24.74181	−81.34369
10	24.74170	−81.34442
11	24.74188	−81.34512
12	24.74224	−81.34588
13	24.74252	−81.34616
14	24.74284	−81.34656
15	24.74320	−81.34678
16	24.74364	−81.34669
17	24.74406	−81.34664
18	24.74437	−81.34636
19	24.74449	−81.34604
20	24.74456	−81.34588
21	24.74458	−81.34571
22	24.74460	−81.34552
23	24.74455	−81.34514
24	24.74448	−81.34500

West Bahia Honda Key WMA

NO MOTOR

Point	Latitude	Longitude
1	24.78525	−81.27156
2	24.78470	−81.27108
3	24.78428	−81.27094
4	24.78352	−81.27019
5	24.78274	−81.26991
6	24.78195	−81.26989
7	24.78128	−81.26965
8	24.78047	−81.26962
9	24.77941	−81.26936
10	24.77877	−81.26932
11	24.77824	−81.26939
12	24.77777	−81.26967
13	24.77761	−81.27003
14	24.77754	−81.27073
15	24.77755	−81.27144
16	24.77779	−81.27204
17	24.77829	−81.27222
18	24.77860	−81.27223
19	24.77886	−81.27238
20	24.77912	−81.27259
21	24.77955	−81.27279
22	24.78067	−81.27283

NO MOTOR—Continued

Point	Latitude	Longitude
23	24.78116	−81.27303
24	24.78156	−81.27303
25	24.78210	−81.27338
26	24.78234	−81.27391
27	24.78284	−81.27483
28	24.78295	−81.27513
29	24.78333	−81.27544
30	24.78401	−81.27555
31	24.78453	−81.27532
32	24.78487	−81.27512
33	24.78525	−81.27485
34	24.78556	−81.27449
35	24.78582	−81.27398
36	24.78587	−81.27368
37	24.78590	−81.27320
38	24.78585	−81.27253
39	24.78560	−81.27186
40	24.78525	−81.27156

Note: The coordinates in the tables below marked with an asterisk (*) are not a part of the zone's boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

Barnes-Card Sound WMA

No Motor

The wildlife management area boundary begins SW of Middle Key in the NW corner of Barnes Sound at the intersection of the shoreline with the line segment formed between Point 1 and Point 2. From this intersection the boundary follows the shoreline generally around to the NE until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary continues to follow the shoreline generally to the SW and then to the east until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues SW to the intersection of the shoreline and the line segment formed between Point 7 and Point 8 on Middle Key. From this intersection the boundary follows the shoreline around the western side of Middle Key until it intersects the line segment between Point 9 and Point 10. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 11 and Point 12 where it ends.

Point	Latitude	Longitude
1*	25.27503	−80.39899
2*	25.27519	−80.39925
3*	25.29560	−80.38496
4*	25.29534	−80.38494
5*	25.29207	−80.38250
6*	25.29189	−80.38228
7*	25.28008	−80.39430
8*	25.28027	−80.39516
9*	25.27574	−80.39840
10*	25.27557	−80.39829
11*	25.27503	−80.39899
12*	25.27519	−80.39925

Bay Keys WMA 3

Idle Speed No Wake

The wildlife management area boundary begins at the intersection of the shoreline and the line segment formed between Point 1 and Point 2 on Bay Keys. From this intersection the boundary continues to Point 2 and then to the south and back generally to the north to each successive point in numerical order until it reaches Point 29. From Point 29 the boundary continues towards Point 30 until it intersects the shoreline. From this intersection the boundary continues around the eastern side of Bay Keys until it intersects the line segment formed between Point 31 and Point 32. From this intersection the boundary continues to Point 32 and to each successive point in numerical order until it reaches Point 38. From Point 38 the boundary continues towards Point 39 until it intersects the shoreline. From this intersection the boundary continues around the western side of Bay Keys until it intersects the line segment formed between Point 40 and Point 41 where it ends.

Point	Latitude	Longitude
1*	24.64084	−81.77765
2	24.64039	−81.77751
3	24.63991	−81.77707
4	24.63927	−81.77672
5	24.63882	−81.77661
6	24.63834	−81.77669
7	24.63786	−81.77669
8	24.63705	−81.77692
9	24.63645	−81.77684

Point	Latitude	Longitude
10	24.63621	−81.77668
11	24.63620	−81.77672
12	24.63610	−81.77691
13	24.63595	−81.77709
14	24.63644	−81.77736
15	24.63786	−81.77743
16	24.63879	−81.77724
17	24.63921	−81.77727
18	24.63952	−81.77752
19	24.63984	−81.77794
20	24.64020	−81.77830
21	24.64079	−81.77871
22	24.64083	−81.78048
23	24.64090	−81.78064
24	24.64137	−81.78126
25	24.64154	−81.78166
26	24.64189	−81.78113
27	24.64159	−81.78064
28	24.64151	−81.78042
29	24.64139	−81.77968
30 *	24.64152	−81.77950
31 *	24.64219	−81.77902
32	24.64249	−81.77886
33	24.64281	−81.77877
34	24.64295	−81.77860
35	24.64299	−81.77841
36	24.64289	−81.77823
37	24.64259	−81.77808
38	24.64237	−81.77804
39 *	24.64208	−81.77795
40 *	24.64084	−81.77765
41 *	24.64039	−81.77751

Boca Grande Key WMA

No Entry

The wildlife management area boundary begins just south of Boca Grande Key at Point 1. From Point 1 the boundary continues generally to the west and then north to each successive point in numerical order until it reaches Point 29. From Point 29 the boundary continues towards Point 30 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the south and then east until it intersects the line segment formed between Point 31 and Point 32. From this intersection the boundary continues to Point 32 and then to each successive point in numerical order ending at Point 34.

Point	Latitude	Longitude
1	24.52704	−82.00396
2	24.52705	−82.00424
3	24.52697	−82.00481
4	24.52689	−82.00508
5	24.52687	−82.00529
6	24.52676	−82.00566
7	24.52676	−82.00591
8	24.52677	−82.00627
9	24.52678	−82.00636
10	24.52688	−82.00676
11	24.52696	−82.00697
12	24.52744	−82.00791
13	24.52748	−82.00799
14	24.52755	−82.00809
15	24.52778	−82.00832
16	24.52787	−82.00838
17	24.52799	−82.00845
18	24.52821	−82.00854
19	24.52837	−82.00857
20	24.52858	−82.00856
21	24.52883	−82.00867
22	24.52943	−82.00887
23	24.52950	−82.00890
24	24.52996	−82.00919
25	24.53071	−82.00957
26	24.53182	−82.01006
27	24.53192	−82.01010
28	24.53230	−82.01019
29	24.53298	−82.01037
30 *	24.53310	−82.00904

Point	Latitude	Longitude
31 *	24.52812	−82.00374
32	24.52770	−82.00343
33	24.52721	−82.00335
34	24.52704	−82.00396

Crocodile Lake WMA 1

No Entry Within 300 Feet (100 Yards) of Shorelines

The wildlife management area boundary begins just north of the mouth of Steamboat Creek on the Card Sound side North Key Largo at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary continues to Point 2 and then generally NE to each successive point in numerical order until it reaches Point 36. From Point 36 the boundary continues towards Point 37 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally to the SW until it intersects the line segment formed between Point 38 and Point 39 where it ends.

Point	Latitude	Longitude
1 *	25.28658	−80.32913
2	25.28713	−80.32954
3	25.28726	−80.32938
4	25.28734	−80.32921
5	25.28740	−80.32886
6	25.28781	−80.32822
7	25.28817	−80.32686
8	25.28821	−80.32647
9	25.28849	−80.32595
10	25.28906	−80.32511
11	25.28928	−80.32489
12	25.28943	−80.32463
13	25.28959	−80.32450
14	25.29017	−80.32376
15	25.29083	−80.32245
16	25.29090	−80.32215
17	25.29119	−80.32188
18	25.29145	−80.32157
19	25.29219	−80.32054
20	25.29229	−80.32037
21	25.29245	−80.32024
22	25.29298	−80.31954
23	25.29313	−80.31923
24	25.29339	−80.31886
25	25.29354	−80.31852
26	25.29366	−80.31836
27	25.29382	−80.31822
28	25.29398	−80.31810
29	25.29426	−80.31782
30	25.29431	−80.31773
31	25.29458	−80.31757
32	25.29511	−80.31711
33	25.29546	−80.31675
34	25.29551	−80.31665
35	25.29553	−80.31655
36	25.29551	−80.31645
37 *	25.29532	−80.31608
38 *	25.28658	−80.32913
39	25.28713	−80.32954

Crocodile Lake WMA 2

No Entry Within 300 Feet (100 Yards) of Shorelines; Exception for Steamboat Creek

The wildlife management area boundary begins just SW of the mouth of Steamboat Creek on the Barnes Sound side North Key Largo at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary continues to Point 2 and then generally to the NW in Barnes Sound to each successive point in numerical order until it reaches Point 158. From Point 158 the boundary continues generally to the east in Card Sound to Point 262 at the mouth of Steamboat Creek. From Point 262 the boundary continues towards Point 263 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south along the western side of Steamboat Creek until it intersects the line segment formed between Point 264 and Point 265 where it ends.

Point	Latitude	Longitude
1 *	25.26721	−80.34202
2	25.26672	−80.34252
3	25.26698	−80.34263
4	25.26718	−80.34272

Point	Latitude	Longitude
5	25.26736	−80.34271
6	25.26783	−80.34234
7	25.26808	−80.34225
8	25.26817	−80.34212
9	25.26832	−80.34209
10	25.26843	−80.34200
11	25.26875	−80.34186
12	25.26892	−80.34162
13	25.26915	−80.34158
14	25.26928	−80.34150
15	25.26936	−80.34139
16	25.26953	−80.34135
17	25.26977	−80.34121
18	25.26989	−80.34128
19	25.27006	−80.34127
20	25.27037	−80.34105
21	25.27054	−80.34101
22	25.27115	−80.34105
23	25.27120	−80.34108
24	25.27108	−80.34137
25	25.27108	−80.34180
26	25.27096	−80.34201
27	25.27082	−80.34209
28	25.27074	−80.34219
29	25.27067	−80.34279
30	25.27113	−80.34375
31	25.27140	−80.34404
32	25.27154	−80.34408
33	25.27168	−80.34404
34	25.27179	−80.34410
35	25.27196	−80.34412
36	25.27238	−80.34392
37	25.27260	−80.34390
38	25.27300	−80.34374
39	25.27365	−80.34340
40	25.27446	−80.34334
41	25.27495	−80.34342
42	25.27516	−80.34342
43	25.27567	−80.34355
44	25.27630	−80.34419
45	25.27643	−80.34437
46	25.27679	−80.34511
47	25.27689	−80.34521
48	25.27694	−80.34539
49	25.27689	−80.34564
50	25.27694	−80.34609
51	25.27689	−80.34636
52	25.27693	−80.34657
53	25.27675	−80.34676
54	25.27663	−80.34703
55	25.27644	−80.34716
56	25.27639	−80.34732
57	25.27613	−80.34773
58	25.27594	−80.34818
59	25.27598	−80.34844
60	25.27613	−80.34870
61	25.27600	−80.34921
62	25.27603	−80.34959
63	25.27615	−80.34983
64	25.27622	−80.35017
65	25.27638	−80.35036
66	25.27664	−80.35041
67	25.27711	−80.35058
68	25.27765	−80.35100
69	25.27827	−80.35126
70	25.27846	−80.35150
71	25.27857	−80.35198
72	25.27863	−80.35209
73	25.27898	−80.35235
74	25.27926	−80.35242
75	25.27949	−80.35264
76	25.27949	−80.35278
77	25.27938	−80.35293
78	25.27898	−80.35330

Point	Latitude	Longitude
79	25.27784	−80.35393
80	25.27768	−80.35408
81	25.27736	−80.35457
82	25.27714	−80.35503
83	25.27710	−80.35524
84	25.27694	−80.35631
85	25.27700	−80.35654
86	25.27710	−80.35665
87	25.27736	−80.35681
88	25.27750	−80.35698
89	25.27766	−80.35729
90	25.27806	−80.35758
91	25.27821	−80.35762
92	25.27843	−80.35757
93	25.27861	−80.35763
94	25.27904	−80.35760
95	25.27915	−80.35756
96	25.27896	−80.35810
97	25.27896	−80.35832
98	25.27886	−80.35847
99	25.27883	−80.35874
100	25.27871	−80.35901
101	25.27870	−80.35928
102	25.27859	−80.35956
103	25.27879	−80.36036
104	25.27895	−80.36055
105	25.27969	−80.36063
106	25.28007	−80.36059
107	25.28059	−80.36074
108	25.28104	−80.36063
109	25.28157	−80.36032
110	25.28187	−80.36029
111	25.28222	−80.36015
112	25.28272	−80.35991
113	25.28282	−80.35981
114	25.28311	−80.35982
115	25.28331	−80.36007
116	25.28346	−80.36014
117	25.28361	−80.36014
118	25.28363	−80.36027
119	25.28371	−80.36041
120	25.28369	−80.36065
121	25.28376	−80.36081
122	25.28386	−80.36090
123	25.28389	−80.36102
124	25.28394	−80.36136
125	25.28373	−80.36152
126	25.28362	−80.36187
127	25.28346	−80.36214
128	25.28330	−80.36223
129	25.28321	−80.36236
130	25.28305	−80.36325
131	25.28306	−80.36341
132	25.28293	−80.36378
133	25.28279	−80.36400
134	25.28278	−80.36426
135	25.28252	−80.36444
136	25.28235	−80.36474
137	25.28234	−80.36489
138	25.28218	−80.36500
139	25.28209	−80.36515
140	25.28211	−80.36543
141	25.28222	−80.36574
142	25.28205	−80.36603
143	25.28202	−80.36628
144	25.28220	−80.36651
145	25.28228	−80.36670
146	25.28245	−80.36679
147	25.28297	−80.36673
148	25.28314	−80.36667
149	25.28364	−80.36670
150	25.28416	−80.36651
151	25.28436	−80.36638
152	25.28445	−80.36625

Point	Latitude	Longitude
153	25.28475	−80.36615
154	25.28494	−80.36590
155	25.28528	−80.36561
156	25.28551	−80.36512
157	25.28566	−80.36515
158	25.28585	−80.36506
159	25.28598	−80.36496
160	25.28607	−80.36478
161	25.28608	−80.36461
162	25.28593	−80.36418
163	25.28600	−80.36400
164	25.28596	−80.36371
165	25.28607	−80.36342
166	25.28603	−80.36313
167	25.28592	−80.36291
168	25.28572	−80.36282
169	25.28569	−80.36276
170	25.28572	−80.36251
171	25.28566	−80.36207
172	25.28555	−80.36179
173	25.28554	−80.36156
174	25.28534	−80.36104
175	25.28531	−80.36085
176	25.28496	−80.35981
177	25.28486	−80.35965
178	25.28474	−80.35922
179	25.28450	−80.35875
180	25.28435	−80.35862
181	25.28410	−80.35818
182	25.28410	−80.35780
183	25.28382	−80.35701
184	25.28374	−80.35663
185	25.28369	−80.35615
186	25.28398	−80.35485
187	25.28400	−80.35444
188	25.28412	−80.35443
189	25.28427	−80.35434
190	25.28441	−80.35418
191	25.28457	−80.35373
192	25.28460	−80.35339
193	25.28493	−80.35291
194	25.28618	−80.35160
195	25.28655	−80.35129
196	25.28680	−80.35089
197	25.28688	−80.35007
198	25.28671	−80.34942
199	25.28683	−80.34792
200	25.28730	−80.34630
201	25.28748	−80.34531
202	25.28771	−80.34471
203	25.28789	−80.34440
204	25.28830	−80.34391
205	25.28852	−80.34381
206	25.28862	−80.34371
207	25.28879	−80.34326
208	25.28916	−80.34325
209	25.28935	−80.34331
210	25.28948	−80.34328
211	25.28965	−80.34333
212	25.28985	−80.34329
213	25.29000	−80.34318
214	25.29013	−80.34318
215	25.29023	−80.34326
216	25.29037	−80.34328
217	25.29058	−80.34316
218	25.29067	−80.34288
219	25.29087	−80.34256
220	25.29091	−80.34233
221	25.29086	−80.34215
222	25.29088	−80.34200
223	25.29097	−80.34179
224	25.29096	−80.34161
225	25.29109	−80.34117
226	25.29114	−80.34045

Point	Latitude	Longitude
227	25.29104	−80.34022
228	25.29099	−80.33992
229	25.29085	−80.33968
230	25.29062	−80.33957
231	25.29050	−80.33955
232	25.29047	−80.33939
233	25.29053	−80.33890
234	25.29024	−80.33835
235	25.28982	−80.33807
236	25.28907	−80.33786
237	25.28855	−80.33753
238	25.28836	−80.33729
239	25.28810	−80.33708
240	25.28761	−80.33679
241	25.28735	−80.33619
242	25.28724	−80.33555
243	25.28723	−80.33545
244	25.28736	−80.33506
245	25.28733	−80.33481
246	25.28717	−80.33464
247	25.28700	−80.33435
248	25.28652	−80.33423
249	25.28655	−80.33396
250	25.28651	−80.33381
251	25.28637	−80.33361
252	25.28636	−80.33340
253	25.28627	−80.33309
254	25.28592	−80.33244
255	25.28585	−80.33196
256	25.28597	−80.33167
257	25.28599	−80.33140
258	25.28595	−80.33126
259	25.28606	−80.33089
260	25.28614	−80.33012
261	25.28614	−80.33008
262	25.28585	−80.32979
263*	25.28566	−80.33011
264*	25.26721	−80.34202
265	25.26672	−80.34252

Crocodile Lake WMA 3

No Entry Within 300 Feet (100 Yards) of Shorelines

The wildlife management area boundary begins just SW of the mouth of Steamboat Creek on the Barnes Sound side North Key Largo at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary continues to Point 2 and then generally to the NW in Barnes Sound to each successive point in numerical order until it reaches Point 8. From Point 8 the boundary continues to the intersection of the shoreline with the line segment formed between Point 9 and Point 10. From this intersection the boundary follows the western shoreline around generally to the SE until it intersects the line segment formed between Point 11 and Point 12 where it ends.

Point	Latitude	Longitude
1*	25.26527	−80.34055
2	25.26484	−80.34102
3	25.26488	−80.34108
4	25.26510	−80.34127
5	25.26523	−80.34133
6	25.26532	−80.34147
7	25.26576	−80.34187
8	25.26615	−80.34205
9*	25.26635	−80.34179
10*	25.26608	−80.34141
11*	25.26527	−80.34055
12	25.26484	−80.34102

Crocodile Lake WMA 4

No Entry Within 300 Feet (100 Yards) of Shorelines

The wildlife management area boundary begins just SW of the mouth of Steamboat Creek on the Barnes Sound side North Key Largo at Point 1. From Point 1 the boundary continues to the intersection of the shoreline and the line segment formed between Point 2 and Point 3. From this intersection the boundary follows the shoreline generally to the south and then SW until it intersects the line segment formed between Point 4 and Point 5 at the northern mouth of Jewfish Creek on Key Largo. From this intersection the boundary continues to Point 5 in Barnes Sound and then generally to the NE and then north to each successive point in numerical order ending at Point 298.

Point	Latitude	Longitude
1	25.26445	−80.34046
2*	25.26461	−80.34057
3*	25.26494	−80.33988
4*	25.19810	−80.38422
5*	25.19833	−80.38449
6	25.19872	−80.38428
7	25.19877	−80.38399
8	25.19863	−80.38362
9	25.19890	−80.38308
10	25.19910	−80.38287
11	25.19922	−80.38250
12	25.19934	−80.38234
13	25.19973	−80.38201
14	25.19987	−80.38173
15	25.20002	−80.38154
16	25.20035	−80.38056
17	25.20023	−80.38010
18	25.20008	−80.37982
19	25.19988	−80.37970
20	25.19967	−80.37977
21	25.19956	−80.37947
22	25.19937	−80.37918
23	25.19881	−80.37867
24	25.19866	−80.37839
25	25.19843	−80.37775
26	25.19844	−80.37725
27	25.19819	−80.37635
28	25.19830	−80.37619
29	25.19829	−80.37598
30	25.19806	−80.37563
31	25.19754	−80.37547
32	25.19751	−80.37516
33	25.19759	−80.37499
34	25.19760	−80.37483
35	25.19776	−80.37465
36	25.19782	−80.37444
37	25.19776	−80.37414
38	25.19798	−80.37404
39	25.19809	−80.37384
40	25.19809	−80.37371
41	25.19801	−80.37345
42	25.19816	−80.37335
43	25.19844	−80.37345
44	25.19865	−80.37340
45	25.19882	−80.37319
46	25.19883	−80.37306
47	25.19878	−80.37292
48	25.19922	−80.37264
49	25.19944	−80.37280
50	25.19963	−80.37279
51	25.19981	−80.37263
52	25.19986	−80.37242
53	25.19999	−80.37239
54	25.20034	−80.37214
55	25.20051	−80.37220
56	25.20076	−80.37221
57	25.20091	−80.37217
58	25.20121	−80.37227
59	25.20139	−80.37223
60	25.20150	−80.37235
61	25.20169	−80.37242
62	25.20191	−80.37241
63	25.20209	−80.37229
64	25.20224	−80.37233
65	25.20241	−80.37229
66	25.20252	−80.37240
67	25.20302	−80.37261
68	25.20350	−80.37246
69	25.20367	−80.37250
70	25.20396	−80.37275
71	25.20434	−80.37284
72	25.20450	−80.37281
73	25.20453	−80.37311
74	25.20448	−80.37337

Point	Latitude	Longitude
75	25.20456	−80.37369
76	25.20465	−80.37378
77	25.20477	−80.37382
78	25.20504	−80.37371
79	25.20533	−80.37344
80	25.20552	−80.37318
81	25.20624	−80.37151
82	25.20628	−80.37126
83	25.20601	−80.36976
84	25.20605	−80.36941
85	25.20611	−80.36920
86	25.20675	−80.36793
87	25.20699	−80.36736
88	25.20717	−80.36675
89	25.20721	−80.36582
90	25.20714	−80.36518
91	25.20709	−80.36486
92	25.20688	−80.36419
93	25.20691	−80.36372
94	25.20687	−80.36247
95	25.20697	−80.36189
96	25.20717	−80.36130
97	25.20736	−80.36094
98	25.20746	−80.36059
99	25.20774	−80.36015
100	25.20787	−80.35979
101	25.20805	−80.35909
102	25.20825	−80.35867
103	25.20845	−80.35798
104	25.20861	−80.35725
105	25.20858	−80.35651
106	25.20846	−80.35630
107	25.20832	−80.35616
108	25.20795	−80.35603
109	25.20774	−80.35609
110	25.20760	−80.35622
111	25.20725	−80.35628
112	25.20707	−80.35646
113	25.20689	−80.35673
114	25.20685	−80.35687
115	25.20663	−80.35686
116	25.20642	−80.35699
117	25.20625	−80.35727
118	25.20622	−80.35747
119	25.20608	−80.35750
120	25.20588	−80.35763
121	25.20572	−80.35795
122	25.20556	−80.35793
123	25.20538	−80.35801
124	25.20540	−80.35777
125	25.20527	−80.35755
126	25.20507	−80.35746
127	25.20480	−80.35749
128	25.20461	−80.35741
129	25.20446	−80.35719
130	25.20440	−80.35707
131	25.20445	−80.35688
132	25.20440	−80.35670
133	25.20441	−80.35649
134	25.20433	−80.35631
135	25.20423	−80.35622
136	25.20421	−80.35583
137	25.20407	−80.35567
138	25.20395	−80.35528
139	25.20367	−80.35499
140	25.20368	−80.35470
141	25.20358	−80.35447
142	25.20393	−80.35374
143	25.20401	−80.35335
144	25.20401	−80.35308
145	25.20433	−80.35318
146	25.20481	−80.35314
147	25.20515	−80.35295
148	25.20550	−80.35255

Point	Latitude	Longitude
149	25.20567	−80.35249
150	25.20601	−80.35247
151	25.20616	−80.35242
152	25.20624	−80.35247
153	25.20638	−80.35298
154	25.20654	−80.35337
155	25.20670	−80.35352
156	25.20693	−80.35351
157	25.20703	−80.35343
158	25.20710	−80.35328
159	25.20770	−80.35304
160	25.20826	−80.35248
161	25.20869	−80.35187
162	25.20876	−80.35164
163	25.20873	−80.35115
164	25.20863	−80.35087
165	25.20868	−80.35013
166	25.20884	−80.34999
167	25.20899	−80.34993
168	25.20928	−80.34965
169	25.20944	−80.34988
170	25.20966	−80.35074
171	25.20993	−80.35133
172	25.21020	−80.35174
173	25.21027	−80.35196
174	25.21046	−80.35209
175	25.21060	−80.35210
176	25.21076	−80.35205
177	25.21095	−80.35187
178	25.21118	−80.35145
179	25.21198	−80.35072
180	25.21283	−80.34982
181	25.21303	−80.34968
182	25.21328	−80.34920
183	25.21388	−80.34836
184	25.21397	−80.34820
185	25.21402	−80.34798
186	25.21408	−80.34792
187	25.21419	−80.34786
188	25.21499	−80.34773
189	25.21567	−80.34755
190	25.21592	−80.34779
191	25.21627	−80.34801
192	25.21657	−80.34806
193	25.21672	−80.34802
194	25.21757	−80.34761
195	25.21800	−80.34716
196	25.21830	−80.34703
197	25.21873	−80.34664
198	25.21900	−80.34622
199	25.21905	−80.34586
200	25.21953	−80.34539
201	25.21966	−80.34542
202	25.21986	−80.34538
203	25.22044	−80.34501
204	25.22184	−80.34481
205	25.22224	−80.34470
206	25.22239	−80.34461
207	25.22257	−80.34442
208	25.22268	−80.34417
209	25.22277	−80.34385
210	25.22280	−80.34328
211	25.22287	−80.34352
212	25.22309	−80.34362
213	25.22355	−80.34351
214	25.22378	−80.34334
215	25.22406	−80.34292
216	25.22474	−80.34211
217	25.22517	−80.34152
218	25.22585	−80.34072
219	25.22625	−80.34036
220	25.22672	−80.33984
221	25.22692	−80.33983
222	25.22749	−80.33945

Point	Latitude	Longitude
223	25.22959	−80.33859
224	25.23145	−80.33767
225	25.23199	−80.33734
226	25.23247	−80.33723
227	25.23393	−80.33666
228	25.23454	−80.33648
229	25.23610	−80.33617
230	25.23637	−80.33605
231	25.23660	−80.33590
232	25.23691	−80.33556
233	25.23711	−80.33543
234	25.23789	−80.33513
235	25.23913	−80.33447
236	25.23943	−80.33435
237	25.24017	−80.33422
238	25.24072	−80.33419
239	25.24136	−80.33407
240	25.24145	−80.33418
241	25.24168	−80.33432
242	25.24250	−80.33436
243	25.24444	−80.33465
244	25.24532	−80.33471
245	25.24562	−80.33469
246	25.24678	−80.33496
247	25.24742	−80.33503
248	25.24775	−80.33501
249	25.24799	−80.33493
250	25.24878	−80.33447
251	25.25069	−80.33320
252	25.25116	−80.33300
253	25.25185	−80.33280
254	25.25273	−80.33282
255	25.25366	−80.33274
256	25.25408	−80.33275
257	25.25445	−80.33266
258	25.25472	−80.33253
259	25.25498	−80.33256
260	25.25524	−80.33264
261	25.25581	−80.33268
262	25.25617	−80.33269
263	25.25635	−80.33262
264	25.25668	−80.33258
265	25.25729	−80.33272
266	25.25752	−80.33260
267	25.25786	−80.33264
268	25.25815	−80.33245
269	25.25834	−80.33250
270	25.25862	−80.33241
271	25.26013	−80.33252
272	25.26113	−80.33234
273	25.26192	−80.33226
274	25.26296	−80.33236
275	25.26338	−80.33257
276	25.26358	−80.33284
277	25.26372	−80.33313
278	25.26404	−80.33343
279	25.26437	−80.33349
280	25.26479	−80.33346
281	25.26499	−80.33339
282	25.26514	−80.33341
283	25.26522	−80.33348
284	25.26518	−80.33372
285	25.26540	−80.33426
286	25.26528	−80.33462
287	25.26531	−80.33481
288	25.26528	−80.33500
289	25.26530	−80.33534
290	25.26520	−80.33602
291	25.26484	−80.33736
292	25.26485	−80.33769
293	25.26480	−80.33786
294	25.26484	−80.33800
295	25.26469	−80.33835
296	25.26442	−80.33926

Point	Latitude	Longitude
297	25.26437	−80.34014
298	25.26445	−80.34046

Eastern Lake Surprise WMA 1

Idle Speed No Wake

The wildlife management area boundary begins in Lake Surprise on North Key Largo at Point 1. From Point 1 the boundary continues towards Point 2 until it intersects the shoreline. From this intersection the boundary follows the shoreline south around eastern Lake Surprise until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally SW until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues towards Point 6 until it intersects the shoreline. From this intersection the boundary continues generally NW until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 9 and Point 10. From this intersection the boundary continues to Point 10 and then generally NE to the successive points in numerical order until it reaches Point 65 where it ends.

Point	Latitude	Longitude
1	25.18536	−80.37233
2*	25.18501	−80.37223
3*	25.17923	−80.37263
4*	25.17891	−80.37293
5*	25.17666	−80.37687
6*	25.18118	−80.38331
7*	25.18144	−80.38356
8*	25.18218	−80.38470
9*	25.18283	−80.38464
10	25.18239	−80.38413
11	25.18254	−80.38402
12	25.18268	−80.38401
13	25.18334	−80.38446
14	25.18371	−80.38448
15	25.18384	−80.38440
16	25.18426	−80.38408
17	25.18424	−80.38388
18	25.18414	−80.38358
19	25.18413	−80.38327
20	25.18416	−80.38305
21	25.18425	−80.38290
22	25.18443	−80.38281
23	25.18482	−80.38286
24	25.18528	−80.38271
25	25.18569	−80.38241
26	25.18609	−80.38197
27	25.18645	−80.38148
28	25.18639	−80.38106
29	25.18646	−80.38090
30	25.18663	−80.38070
31	25.18677	−80.38010
32	25.18678	−80.37964
33	25.18688	−80.37944
34	25.18730	−80.37814
35	25.18744	−80.37689
36	25.18768	−80.37657
37	25.18767	−80.37636
38	25.18774	−80.37621
39	25.18791	−80.37607
40	25.18820	−80.37603
41	25.18834	−80.37588
42	25.18831	−80.37568
43	25.18837	−80.37546
44	25.18859	−80.37517
45	25.18865	−80.37484
46	25.18893	−80.37438
47	25.18874	−80.37411
48	25.18865	−80.37384
49	25.18839	−80.37395
50	25.18800	−80.37385
51	25.18770	−80.37395
52	25.18745	−80.37394
53	25.18701	−80.37415
54	25.18676	−80.37420
55	25.18662	−80.37416
56	25.18653	−80.37407

Point	Latitude	Longitude
57	25.18648	−80.37389
58	25.18636	−80.37379
59	25.18628	−80.37361
60	25.18629	−80.37328
61	25.18642	−80.37302
62	25.18639	−80.37296
63	25.18592	−80.37245
64	25.18570	−80.37231
65	25.18536	−80.37233

Eastern Lake Surprise WMA 2

No Entry

The wildlife management area boundary begins in eastern Lake Surprise on North Key Largo at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary follows the shoreline generally to the SE and then to the NW until it intersects with the line segment formed between Point 2 and Point 3. From this intersection the boundary continues towards Point 3 until it ends at the intersection with the shoreline.

Point	Latitude	Longitude
1 *	25.17923	−80.37263
2 *	25.17891	−80.37293
3 *	25.17923	−80.37263

Eastern Lake Surprise WMA 3

No Entry

The wildlife management area boundary begins in northeastern Lake Surprise on North Key Largo at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary continues to Point 2 and then generally SW to each successive point in numerical order until it reaches Point 57. From Point 57 the boundary continues towards Point 58 until it intersects the shoreline. From this intersection the boundary follows the shoreline of northwestern Lake Surprise generally NE until it intersects the line segment formed between Point 59 and Point 60 where it ends.

Point	Latitude	Longitude
1 *	25.18501	−80.37223
2	25.18536	−80.37233
3	25.18570	−80.37231
4	25.18592	−80.37245
5	25.18639	−80.37296
6	25.18642	−80.37302
7	25.18629	−80.37328
8	25.18628	−80.37361
9	25.18636	−80.37379
10	25.18648	−80.37389
11	25.18653	−80.37407
12	25.18662	−80.37416
13	25.18676	−80.37420
14	25.18701	−80.37415
15	25.18745	−80.37394
16	25.18770	−80.37395
17	25.18800	−80.37385
18	25.18839	−80.37395
19	25.18865	−80.37384
20	25.18874	−80.37411
21	25.18893	−80.37438
22	25.18865	−80.37484
23	25.18859	−80.37517
24	25.18837	−80.37546
25	25.18831	−80.37568
26	25.18834	−80.37588
27	25.18820	−80.37603
28	25.18791	−80.37607
29	25.18774	−80.37621
30	25.18767	−80.37636
31	25.18768	−80.37657
32	25.18744	−80.37689
33	25.18730	−80.37814
34	25.18688	−80.37944
35	25.18678	−80.37964
36	25.18677	−80.38010
37	25.18663	−80.38070
38	25.18646	−80.38090
39	25.18639	−80.38106
40	25.18645	−80.38148

Point	Latitude	Longitude
41	25.18609	−80.38197
42	25.18569	−80.38241
43	25.18528	−80.38271
44	25.18482	−80.38286
45	25.18443	−80.38281
46	25.18425	−80.38290
47	25.18416	−80.38305
48	25.18413	−80.38327
49	25.18414	−80.38358
50	25.18424	−80.38388
51	25.18426	−80.38408
52	25.18384	−80.38440
53	25.18371	−80.38448
54	25.18334	−80.38446
55	25.18268	−80.38401
56	25.18254	−80.38402
57	25.18239	−80.38413
58*	25.18283	−80.38464
59*	25.18501	−80.37223
60	25.18536	−80.37233

Lower Harbor Keys WMA 1

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 just north of Lower Harbor Keys. From Point 1 the boundary continues to each successive point in numerical order until it reaches Point 9. From Point 9 the boundary continues towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the east until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues towards Point 12 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 13 and Point 14. From this intersection the boundary continues to Point 14 and then to each successive point in numerical order until it reaches Point 22. From Point 22 the boundary continues towards Point 23 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the SE until it intersects the line segment formed between Point 23 and Point 24. From this intersection the boundary continues towards Point 24 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 24 and Point 25. From this intersection the boundary continues towards Point 25 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west and south until it intersects the line segment formed between Point 26 and Point 27. From this intersection the boundary continues to Point 27 and then to each successive point in numerical order until it ends at Point 41.

Point	Latitude	Longitude
1	24.65039	−81.73302
2	24.65042	−81.73330
3	24.65046	−81.73369
4	24.65054	−81.73444
5	24.65065	−81.73518
6	24.65106	−81.73609
7	24.65164	−81.73561
8	24.65138	−81.73502
9	24.65138	−81.73446
10*	24.65145	−81.73357
11*	24.65238	−81.73229
12*	24.65286	−81.73252
13*	24.65373	−81.73248
14	24.65397	−81.73231
15	24.65431	−81.73240
16	24.65458	−81.73294
17	24.65450	−81.73331
18	24.65407	−81.73414
19	24.65449	−81.73388
20	24.65473	−81.73335
21	24.65490	−81.73266
22	24.65467	−81.73248
23*	24.65459	−81.73192
24*	24.65378	−81.73136
25*	24.65315	−81.73141
26*	24.65288	−81.73189
27	24.65229	−81.73119
28	24.65171	−81.73116
29	24.65173	−81.73040
30	24.65133	−81.72978
31	24.65102	−81.72915
32	24.65187	−81.72797
33	24.64998	−81.72693
34	24.65020	−81.72884

Point	Latitude	Longitude
35	24.65047	−81.72930
36	24.65076	−81.72973
37	24.65120	−81.73080
38	24.65089	−81.73139
39	24.65036	−81.73151
40	24.65033	−81.73223
41	24.65039	−81.73302

Lower Harbor Keys WMA 2

Idle Speed No Wake

The wildlife management area boundary begins at the intersection of the southern shoreline and the line segment formed by Point 1 and Point 2. From this intersection the boundary continues towards Point 2 until it intersects the northern shoreline. From this intersection the boundary follows the shoreline generally north until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues to Point 4 and then to each successive point in numerical order until it reaches Point 35. From Point 35 the boundary continues towards Point 36 until it intersects the shoreline. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 37 and Point 38. From this intersection the boundary continues towards Point 38 until it intersects the shoreline. From this intersection the boundary continues NE and then NW until it intersects the line segment formed between Point 39 and Point 40. From this intersection the boundary continues towards Point 40 until it intersects the shoreline. From this intersection the boundary follows the shoreline until it intersects the line segment formed between Point 41 and Point 42. From this intersection the boundary continues to Point 42 and then generally south to each successive point in numerical order until it reaches Point 58. From Point 58 the boundary continues towards Point 59 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 60 and Point 61 where it ends.

Point	Latitude	Longitude
1 *	24.63714	−81.72648
2 *	24.63786	−81.72658
3 *	24.64324	−81.72504
4	24.64357	−81.72482
5	24.64379	−81.72478
6	24.64398	−81.72471
7	24.64431	−81.72469
8	24.64453	−81.72475
9	24.64467	−81.72493
10	24.64488	−81.72525
11	24.64502	−81.72554
12	24.64512	−81.72578
13	24.64514	−81.72594
14	24.64506	−81.72610
15	24.64490	−81.72632
16	24.64481	−81.72669
17	24.64480	−81.72697
18	24.64475	−81.72733
19	24.64470	−81.72750
20	24.64459	−81.72765
21	24.64432	−81.72817
22	24.64418	−81.72849
23	24.64397	−81.72882
24	24.64378	−81.72928
25	24.64359	−81.72965
26	24.64334	−81.73000
27	24.64306	−81.73054
28	24.64269	−81.73109
29	24.64231	−81.73194
30	24.64192	−81.73319
31	24.64240	−81.73364
32	24.64239	−81.73331
33	24.64245	−81.73291
34	24.64258	−81.73221
35	24.64290	−81.73172
36 *	24.64366	−81.73050
37 *	24.64393	−81.73019
38 *	24.64423	−81.73019
39 *	24.64863	−81.72961
40 *	24.64875	−81.72928
41 *	24.64906	−81.72888
42	24.64909	−81.72802
43	24.64893	−81.72729
44	24.64860	−81.72812
45	24.64795	−81.72822
46	24.64775	−81.72862
47	24.64688	−81.72765

Point	Latitude	Longitude
48	24.64640	−81.72754
49	24.64573	−81.72762
50	24.64529	−81.72752
51	24.64491	−81.72753
52	24.64495	−81.72682
53	24.64517	−81.72625
54	24.64532	−81.72589
55	24.64524	−81.72562
56	24.64460	−81.72447
57	24.64403	−81.72442
58	24.64344	−81.72451
59 *	24.64267	−81.72468
60 *	24.63714	−81.72648
61 *	24.63786	−81.72658

Lower Harbor Keys WMA 3

Idle Speed No Wake

The wildlife management area boundary begins at the intersection of the southeastern shoreline and the line segment formed by Point 1 and Point 2. From this intersection the boundary continues towards Point 2 until it intersects the southwestern shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the northeastern shoreline. From this intersection the boundary follows the shoreline generally SW until it intersects the line segment formed between Point 5 and Point 6 where it ends.

Point	Latitude	Longitude
1 *	24.63598	−81.72307
2 *	24.63671	−81.72340
3 *	24.63793	−81.72233
4 *	24.63763	−81.72191
5 *	24.63598	−81.72307
6 *	24.63671	−81.72340

Marathon Oceanside Shoreline WMA 1

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 just south of Vaca Key and continues south to Point 2. From Point 2 the boundary continues towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline west and then north until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues to Point 5 and then east and south to each successive point in numerical order ending at Point 12.

Point	Latitude	Longitude
1	24.69269	−81.07529
2	24.69203	−81.07537
3 *	24.69177	−81.07551
4 *	24.69376	−81.07932
5	24.69368	−81.07888
6	24.69356	−81.07840
7	24.69350	−81.07803
8	24.69346	−81.07746
9	24.69341	−81.07712
10	24.69340	−81.07675
11	24.69322	−81.07522
12	24.69269	−81.07529

Marathon Oceanside Shoreline WMA 2

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues towards Point 2 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 2 and Point 3. From this intersection the boundary continues to Point 3 and then to each successive point in numerical order until it reaches Point 20. From Point 20 the boundary continues towards Point 21 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally north until it intersects the line segment formed between Point 22 and Point 23. From this intersection the boundary continues towards Point 23 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 24 and Point 25. From this intersection the boundary continues to Point 25 where it ends.

Point	Latitude	Longitude
1	24.70081	−81.07727
2 *	24.70137	−81.07703
3	24.70133	−81.07685
4	24.70114	−81.07592

Point	Latitude	Longitude
5	24.70099	−81.07551
6	24.70076	−81.07505
7	24.70054	−81.07481
8	24.70024	−81.07455
9	24.69997	−81.07442
10	24.69968	−81.07421
11	24.69952	−81.07411
12	24.69889	−81.07346
13	24.69528	−81.07496
14	24.69341	−81.07520
15	24.69351	−81.07594
16	24.69355	−81.07631
17	24.69360	−81.07688
18	24.69362	−81.07743
19	24.69372	−81.07816
20	24.69387	−81.07886
21 *	24.69395	−81.07930
22 *	24.69559	−81.07875
23 *	24.69569	−81.07910
24 *	24.70020	−81.07787
25	24.70081	−81.07727

Marathon Oceanside Shoreline WMA 3

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2 and then to each successive point in numerical order until it reaches Point 11. From Point 11 the boundary continues towards Point 12 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 13 and Point 14. From this intersection the boundary continues to Point 15 where it ends.

Point	Latitude	Longitude
1	24.70296	−81.07077
2	24.69992	−81.07304
3	24.69907	−81.07339
4	24.69968	−81.07396
5	24.70001	−81.07420
6	24.70029	−81.07440
7	24.70061	−81.07467
8	24.70088	−81.07496
9	24.70112	−81.07539
10	24.70131	−81.07586
11	24.70148	−81.07676
12 *	24.70152	−81.07701
13 *	24.71061	−81.07095
14 *	24.71059	−81.07084
15	24.70296	−81.07077

Marathon Oceanside Shoreline WMA 4

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2 and then to each successive point in numerical order until it reaches Point 4. From Point 4 the boundary continues towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues to Point 7 where it ends.

Point	Latitude	Longitude
1	24.70382	−81.07013
2	24.70345	−81.07041
3	24.71124	−81.07041
4	24.71160	−81.07013
5 *	24.70842	−81.07013
6 *	24.70814	−81.07013
7	24.70382	−81.07013

Marathon Oceanside Shoreline WMA 5

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2 and then to Point 3. From Point 3 the boundary continues north towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the NE until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 6 and Point 7. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point

7 and Point 8. From this intersection the boundary follows the shoreline generally to the NE until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues south to Point 10 where it ends.

Point	Latitude	Longitude
1	24.70751	−81.06421
2	24.70582	−81.06865
3	24.70448	−81.06964
4*	24.71254	−81.06968
5*	24.71314	−81.06943
6*	24.71351	−81.06927
7*	24.71335	−81.06914
8*	24.71350	−81.06895
9*	24.71556	−81.06431
10	24.70751	−81.06421

Marathon Oceanside Shoreline WMA 6

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2. From Point 2 the boundary continues north towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues south to Point 7 where it ends.

Point	Latitude	Longitude
1	24.70843	−81.06178
2	24.70762	−81.06391
3*	24.71557	−81.06392
4*	24.71557	−81.06380
5*	24.71549	−81.06339
6*	24.71565	−81.06177
7	24.70843	−81.06178

Marathon Oceanside Shoreline WMA 7

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2. From Point 2 the boundary continues north towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues to Point 5 where it ends.

Point	Latitude	Longitude
1	24.70909	−81.06003
2	24.70860	−81.06134
3*	24.71568	−81.06139
4*	24.71604	−81.06000
5	24.70909	−81.06003

Marathon Oceanside Shoreline WMA 8

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2. From Point 2 the boundary continues north towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 6 and Point 7. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 8 and Point 9. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 9 and Point 10. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 13 and Point 14. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 15 and Point 16. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 17 and Point 18. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 19 and 20. From this intersection the boundary continues south to Point 20 where it ends.

Point	Latitude	Longitude
1	24.71070	−81.05387
2	24.70930	−81.05937
3*	24.71645	−81.05956
4*	24.71694	−81.05857
5*	24.71683	−81.05843
6*	24.71705	−81.05819
7*	24.71724	−81.05789
8*	24.71724	−81.05769

Point	Latitude	Longitude
9*	24.71718	−81.05754
10*	24.71722	−81.05740
11*	24.71771	−81.05691
12*	24.71764	−81.05676
13*	24.71798	−81.05676
14*	24.71819	−81.05665
15*	24.71872	−81.05617
16*	24.71859	−81.05604
17*	24.71881	−81.05600
18*	24.71896	−81.05588
19*	24.72026	−81.05397
20	24.71070	−81.05387

Marathon Oceanside Shoreline WMA 9

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2. From Point 2 the boundary continues north towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 5 and Point 6. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 8 and Point 9. From this intersection the boundary follows the shoreline east until it intersects with the line segment formed between Point 10 and Point 11. From this intersection the boundary continues to Point 11 where it ends.

Point	Latitude	Longitude
1	24.71131	−81.05148
2	24.71083	−81.05339
3*	24.72015	−81.05343
4*	24.72135	−81.05298
5*	24.72127	−81.05279
6*	24.72145	−81.05268
7*	24.72148	−81.05217
8*	24.72135	−81.05203
9*	24.72148	−81.05184
10*	24.72150	−81.05155
11	24.71131	−81.05148

Marathon Oceanside Shoreline WMA 10

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues to Point 2. From Point 2 the boundary continues north towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline SE until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 5 and Point 6. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 8 and Point 9. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 10 and Point 11. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 11 and Point 12. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 13 and Point 14. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 14 and Point 15. From this intersection the boundary follows the shoreline NE until it intersects with the line segment formed between Point 16 and Point 17. From this intersection the boundary continues south to Point 17 where it ends.

Point	Latitude	Longitude
1	24.71265	−81.04627
2	24.71142	−81.05107
3*	24.72151	−81.05114
4*	24.72111	−81.05061
5*	24.72097	−81.05042
6*	24.72110	−81.05030
7*	24.72109	−81.04978
8*	24.72085	−81.04965
9*	24.72096	−81.04944
10*	24.72238	−81.04897
11*	24.72233	−81.04885
12*	24.72242	−81.04872
13*	24.72244	−81.04692
14*	24.72239	−81.04651
15*	24.72254	−81.04625
16*	24.72269	−81.04605
17	24.71265	−81.04627

Marathon Oceanside Shoreline WMA 11

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues north towards Point 2 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 4 and Point 5. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 7 and Point 8. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 10 and Point 11. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 12 and Point 13. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 13 and Point 14. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 15 and Point 16. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 17 and Point 18. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 19 and Point 20. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 20 and Point 21. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 22 and Point 23. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 23 and Point 24. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 25 and Point 26. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 26 and Point 27. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 28 and Point 29. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 30 and 31. From this intersection the boundary follows the shoreline east until it intersects with the line segment formed between Point 32 and Point 33. From this intersection the boundary continues south to Point 33 and then to each successive point in numerical order until it reaches Point 43 where it ends.

Point	Latitude	Longitude
1	24.71297	−81.04491
2*	24.72368	−81.04480
3*	24.72371	−81.04462
4*	24.72365	−81.04439
5*	24.72387	−81.04421
6*	24.72401	−81.04373
7*	24.72381	−81.04357
8*	24.72401	−81.04339
9*	24.72414	−81.04293
10*	24.72400	−81.04278
11*	24.72429	−81.04264
12*	24.72535	−81.04143
13*	24.72520	−81.04118
14*	24.72546	−81.04101
15*	24.72586	−81.03979
16*	24.72575	−81.03947
17*	24.72599	−81.03943
18*	24.72616	−81.03933
19*	24.72720	−81.03490
20*	24.72711	−81.03470
21*	24.72724	−81.03458
22*	24.72728	−81.03390
23*	24.72708	−81.03375
24*	24.72720	−81.03356
25*	24.72731	−81.03264
26*	24.72718	−81.03239
27*	24.72739	−81.03227
28*	24.72756	−81.03154
29*	24.72742	−81.03125
30*	24.72778	−81.03133
31*	24.72801	−81.03115
32*	24.72821	−81.03029
33	24.72521	−81.03060
34	24.72248	−81.03188
35	24.71857	−81.03016
36	24.71598	−81.02914
37	24.71362	−81.02521
38	24.71169	−81.02500
39	24.71234	−81.03006
40	24.71291	−81.03354
41	24.71342	−81.03673
42	24.71362	−81.03903
43	24.71297	−81.04491

Marquesas Keys WMA 5

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues west to Point 2. From Point 2 the boundary continues towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally north until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues east to Point 5. From Point 5 the boundary continues towards Point 6 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues west to Point 8 where it ends.

Point	Latitude	Longitude
1	24.54928	−82.12325
2	24.54925	−82.12387
3*	24.54932	−82.12463
4*	24.55071	−82.12565
5	24.55084	−82.12426
6*	24.55100	−82.12265
7*	24.54930	−82.12248
8	24.54928	−82.12325

Snake Creek WMA 5

No Motor

The wildlife management area boundary begins at Point 1 and continues north to Point 2 and Point 3. From Point 3 the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the segment formed between Point 5 and Point 6. From this intersection the boundary continues south to Point 6 and then to each successive point in numerical order until it reaches Point 14 where it ends.

Point	Latitude	Longitude
1	24.94988	−80.58636
2	24.95017	−80.58640
3	24.95120	−80.58686
4*	24.95213	−80.58686
5*	24.95365	−80.57247
6	24.95186	−80.57257
7	24.94680	−80.57271
8	24.94129	−80.58042
9	24.94368	−80.58226
10	24.94592	−80.58277
11	24.94742	−80.58409
12	24.94797	−80.58525
13	24.94863	−80.58603
14	24.94988	−80.58636

Tavernier Key WMA 2

No Motor and No Anchor

The wildlife management area boundary begins at Point 1 and continues generally west to each successive point in numerical order until it reaches Point 9. From Point 9 the boundary continues towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues south to Point 12 and ends at Point 13.

Point	Latitude	Longitude
1	24.99714	−80.52042
2	24.99669	−80.52156
3	24.99678	−80.52273
4	24.99718	−80.52350
5	24.99737	−80.52449
6	24.99814	−80.52557
7	24.99877	−80.52654
8	24.99903	−80.52697
9	24.99904	−80.52698
10*	24.99958	−80.52898
11*	25.00200	−80.51992
12	24.99800	−80.52098
13	24.99714	−80.52042

Tavernier Key WMA 3

No Motor and No Anchor

The wildlife management area boundary begins at Point 1 and continues generally south and then west to each successive point in numerical order until it reaches Point 6. From Point 6 the boundary continues towards Point 7 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the east until it intersects the line segment formed between Point 8 and Point 9. From this intersection the boundary continues east to Point 9 and then generally NE to each successive point in numerical order until it reaches Point 23 where it ends.

Point	Latitude	Longitude
1	24.99533	−80.52814
2	24.99333	−80.52659
3	24.98952	−80.52362
4	24.98458	−80.52899
5	24.98735	−80.53482
6	24.99049	−80.53631
7*	24.99154	−80.53528
8*	24.99304	−80.53406
9	24.99289	−80.53310
10	24.99284	−80.53281
11	24.99291	−80.53246
12	24.99287	−80.53218
13	24.99294	−80.53193
14	24.99297	−80.53182
15	24.99308	−80.53174
16	24.99312	−80.53171
17	24.99384	−80.53075
18	24.99380	−80.53042
19	24.99379	−80.53026
20	24.99407	−80.52967
21	24.99500	−80.52932
22	24.99635	−80.52893
23	24.99533	−80.52814

West Content Keys WMA 1

Idle Speed No Wake

The wildlife management area boundary begins at Point 1 and continues west towards Point 2 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues east to Point 4 and then south to Point 5. From Point 5 the boundary continues towards Point 6 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues SW to Point 7. From Point 7 the boundary continues towards Point 8 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues south to Point 10 where it ends.

Point	Latitude	Longitude
1	24.78196	−81.48875
2*	24.78194	−81.49159
3*	24.79184	−81.48926
4	24.79152	−81.48779
5	24.79037	−81.48830
6*	24.79030	−81.48832
7	24.79020	−81.48848
8*	24.79008	−81.48864
9*	24.78374	−81.48891
10	24.78196	−81.48875

West Content Keys WMA 2

No Entry

The wildlife management area boundary begins at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary follows the shoreline generally north until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues towards Point 6 until it intersects the shoreline. From this intersection the boundary follows the shoreline east and then south until it intersects the line segment formed between Point 7 and the intersection of the shoreline and the line segment formed between Point 8 and Point 9. From this intersection the boundary continues west to the intersection of the shoreline and the line segment formed between Point 8 and Point 9 where it ends.

Point	Latitude	Longitude
1*	24.78361	−81.49804
2*	24.78383	−81.49804
3*	24.78689	−81.50019
4*	24.78758	−81.50002
5*	24.78877	−81.49667
6*	24.78898	−81.49638
7*	24.78342	−81.49486
8*	24.78361	−81.49804
9*	24.78383	−81.49804

Whitmore Bight WMA

No Motor

The wildlife management area boundary begins at Point 1 east of Key Largo and continues to Point 2, Point 3, and then Point 4. From Point 4 the boundary continues west towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues to Point 7 and Point 8. From Point 8 the boundary continues north towards Point 9 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally north until it intersects the line segment formed between Point 10 and Point 11. From this intersection the boundary continues east to Point 11 and then to each successive point in numerical order until it reaches Point 14 where it ends.

Point	Latitude	Longitude
1	25.09879	−80.40625
2	25.09985	−80.40544
3	25.10127	−80.40509
4	25.10169	−80.40362
5*	25.10384	−80.40763
6*	25.15866	−80.35582
7	25.16045	−80.35397
8	25.16109	−80.35387
9*	25.16314	−80.35469
10*	25.16915	−80.35011
11	25.16918	−80.34978
12	25.16672	−80.34438
13	25.09659	−80.39692
14	25.09879	−80.40625

Woman Key WMA

No Entry

The wildlife management area boundary begins at Point 1 SE of Woman Key and continues west to each successive point in numerical order until it reaches Point 24. From Point 24 the boundary continues north towards Point 25 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 26 and Point 27. From this intersection the boundary continues east to Point 27 then south to Point 28 and Point 29 where it ends.

Point	Latitude	Longitude
1	24.52295	−81.96687
2	24.52294	−81.96689
3	24.52291	−81.96698
4	24.52290	−81.96706
5	24.52289	−81.96714
6	24.52286	−81.96723
7	24.52283	−81.96740
8	24.52281	−81.96758
9	24.52281	−81.96773
10	24.52285	−81.96855
11	24.52286	−81.96866
12	24.52289	−81.96885
13	24.52290	−81.96913
14	24.52290	−81.96971
15	24.52291	−81.96981
16	24.52296	−81.97038
17	24.52296	−81.97069
18	24.52295	−81.97104
19	24.52282	−81.97202
20	24.52276	−81.97239
21	24.52269	−81.97282
22	24.52268	−81.97293
23	24.52265	−81.97340
24	24.52265	−81.97349
25*	24.52391	−81.97363
26*	24.52419	−81.96746
27	24.52420	−81.96700
28	24.52319	−81.96689
29	24.52295	−81.96687

Barracuda Keys WMA

Idle Speed No Wake

The wildlife management area seaward boundary begins just east of Barracuda Keys at Point 1 and continues SW to Point 2. From Point 2 the seaward boundary continues towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the NE and then generally SW until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues SW to Point 5 and then to each successive point in numerical order until it reaches Point 8 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.72801	−81.59614
2	24.71841	−81.60001
3*	24.71345	−81.60925
4*	24.71318	−81.60986
5	24.70397	−81.62932
6	24.71496	−81.64186
7	24.73373	−81.60053
8	24.72801	−81.59614

Cayo Agua Keys WMA

Idle Speed No Wake

The wildlife management area seaward boundary begins in northern Cayo Agua Keys at the intersection of the shoreline with the line segment formed between Point 1 and Point 2. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline SE until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues towards Point 6 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues towards Point 8 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 8 and Point 9. From this intersection the boundary continues towards Point 9 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 10 and Point 11. From this intersection the boundary continues towards Point 11 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west and then north until it intersects the line segment formed between Point 12 and Point 13. From this intersection the boundary continues towards Point 13 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 14 and Point 15. From this intersection the boundary continues towards Point 15 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east and then north until it intersects the line segment formed between Point 16 and Point 17. From this intersection the boundary continues towards Point 17 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 18 and Point 19. From this intersection the boundary continues to Point 19 and then to point 20 and to Point 21. From Point 21 the boundary continues towards Point 22 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 23 and Point 24. From this intersection the boundary continues towards Point 24 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 25 and Point 26. From this intersection the boundary continues to the intersection of the shoreline with the line segment formed between Point 27 and Point 28 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1*	24.63365	−81.74368
2*	24.63352	−81.74371
3*	24.63305	−81.74364
4*	24.63300	−81.74353
5*	24.63216	−81.74279
6*	24.63163	−81.74274
7*	24.63001	−81.74285
8*	24.62958	−81.74284
9*	24.62947	−81.74324
10*	24.62948	−81.74393
11*	24.62956	−81.74444
12*	24.63249	−81.74670
13*	24.63244	−81.74697
14*	24.63224	−81.74788
15*	24.63250	−81.74800
16*	24.63323	−81.74701
17*	24.63356	−81.74700
18*	24.63474	−81.74603
19	24.63485	−81.74580
20	24.63468	−81.74542
21	24.63370	−81.74540
22*	24.63326	−81.74553
23*	24.63270	−81.74530
24*	24.63258	−81.74514
25*	24.63366	−81.74419
26*	24.63374	−81.74406
27*	24.63365	−81.74368
28*	24.63352	−81.74371

Cotton Key WMA

No Motor

The wildlife management area seaward boundary begins just north of Cotton Key at Point 1 and continues to each successive point in numerical order until it reaches Point 13. From Point 13 the boundary continues to the intersection of the shoreline and the line segment formed by Point 14 and Point 15. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 16 and Point 17. From this intersection the boundary continues south to Point 17 and then to each successive point in numerical order until it reaches Point 34 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.96534	−80.62371
2	24.96217	−80.62222
3	24.95775	−80.62167
4	24.95604	−80.62041
5	24.95566	−80.62018
6	24.95510	−80.61969
7	24.95467	−80.61944
8	24.95382	−80.61882
9	24.95357	−80.61860
10	24.95342	−80.61853
11	24.95315	−80.61857
12	24.95207	−80.61844
13	24.95168	−80.61848
14*	24.95134	−80.61852
15*	24.95140	−80.61866
16*	24.95048	−80.61950
17	24.95012	−80.61944
18	24.94987	−80.61950
19	24.94932	−80.61943
20	24.94901	−80.61933
21	24.94868	−80.61911
22	24.94778	−80.61887
23	24.94753	−80.61886
24	24.94740	−80.62102
25	24.94742	−80.62205
26	24.94748	−80.62268
27	24.94804	−80.62353
28	24.95682	−80.62360
29	24.95838	−80.62506
30	24.95650	−80.63762
31	24.96032	−80.63704
32	24.96016	−80.62849
33	24.96322	−80.62475
34	24.96534	−80.62371

East Content Keys and Upper Harbor Key Flats WMA 2

Idle Speed No Wake

The wildlife management area seaward boundary begins just NE of Upper Harbor Key at Point 1 and continues generally SW and then NW to each successive point in numerical order until it reaches Point 9. From Point 9 the boundary continues to the intersection of the shoreline and the line segment formed between Point 10 and Point 11. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 12 and Point 13. From this intersection the boundary continues north to Point 14 and then Point 15. From Point 15 the boundary continues towards Point 16 until it intersects the shoreline. From this intersection the boundary follows the shoreline SW until it intersects the line segment formed between Point 17 and Point 18. From this intersection the boundary continues towards Point 18 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 19 and Point 20. From this intersection the boundary continues towards Point 20 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south and then west until it intersects the line segment formed between Point 21 and Point 22. From this intersection the boundary continues towards Point 22 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 23 and Point 24. From this intersection the boundary continues to Point 24 and then to the intersection of the shoreline and the line segment formed between Point 25 and Point 26. From this intersection the boundary follows the shoreline generally north and then NE until it intersects the line segment formed between Point 27 and Point 28. From this intersection the boundary continues towards Point 28 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 29 and Point 30. From this intersection the boundary continues towards Point 30 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the east and north until it intersects the line segment formed between Point 30 and Point 31. From this intersection the boundary continues towards Point 31 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 31 and Point 32. From this intersection the boundary continues towards Point 32 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 33 and Point 34. From this intersection the boundary continues to Point 34 and then to each successive point in numerical order until it reaches Point 38 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

In addition, the inner boundary of this zone is also defined by the East Content Keys and Upper Harbor Key Flats Wildlife Management Area 1 (no entry zone around

Upper Harbor Key) that is described earlier in this appendix.

Point	Latitude	Longitude
1	24.81837	−81.42989
2	24.81206	−81.43563
3	24.80073	−81.44120
4	24.79213	−81.45039
5	24.78816	−81.45029
6	24.78526	−81.45419
7	24.77731	−81.45450
8	24.77819	−81.46489
9	24.78344	−81.46760
10*	24.78440	−81.46821
11*	24.78451	−81.46802
12*	24.78492	−81.46804
13*	24.78493	−81.46825
14	24.78593	−81.46810
15	24.79541	−81.46748
16*	24.79638	−81.46742
17*	24.79589	−81.46810
18*	24.79556	−81.46851
19*	24.79537	−81.47051
20*	24.79331	−81.47179
21*	24.79230	−81.47551
22*	24.79230	−81.47601
23*	24.79361	−81.47575
24	24.79382	−81.47614
25*	24.79593	−81.47599
26*	24.79610	−81.47565
27*	24.79978	−81.47308
28*	24.80041	−81.47262
29*	24.80184	−81.46881
30*	24.80207	−81.46886
31*	24.80228	−81.46889
32*	24.80224	−81.46866
33*	24.80322	−81.46592
34	24.80377	−81.46534
35	24.82795	−81.44055
36	24.82599	−81.43778
37	24.82329	−81.43647
38	24.81837	−81.42989

East Harbor Key WMA

No Entry

The wildlife management area seaward boundary begins just NE of East Harbor Key at Point 1 and continues to each successive point in numerical order until it reaches Point 8. From Point 8 the boundary continues towards Point 9 until it intersects the shoreline. From this intersection the boundary follows the shoreline to the north until it intersects the line segment formed between Point 10 and Point 11. From this intersection the boundary continues to Point 11 and then to each successive point in numerical order until it reaches Point 36 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.65964	−81.73360
2	24.65919	−81.73347
3	24.65892	−81.73346
4	24.65871	−81.73349
5	24.65843	−81.73361
6	24.65820	−81.73377
7	24.65807	−81.73391
8	24.65794	−81.73410
9*	24.65787	−81.73422
10*	24.65779	−81.73518
11	24.65784	−81.73532
12	24.65797	−81.73552
13	24.65813	−81.73570
14	24.65827	−81.73598
15	24.65842	−81.73617
16	24.65856	−81.73629
17	24.65881	−81.73645
18	24.65906	−81.73655

Point	Latitude	Longitude
19	24.65931	−81.73657
20	24.65959	−81.73658
21	24.65981	−81.73652
22	24.66001	−81.73643
23	24.66017	−81.73632
24	24.66032	−81.73615
25	24.66040	−81.73601
26	24.66048	−81.73578
27	24.66049	−81.73549
28	24.66045	−81.73511
29	24.66041	−81.73496
30	24.66034	−81.73480
31	24.66031	−81.73454
32	24.66022	−81.73420
33	24.66013	−81.73402
34	24.65999	−81.73383
35	24.65983	−81.73369
36	24.65964	−81.73360

Mud Keys WMA

Idle Speed No Wake

The wildlife management area seaward boundary begins on the eastern side of Mud Keys at the intersection of the shoreline with the line segment formed between Point 1 and Point 2. From this intersection the boundary continues towards Point 2 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 3 and Point 4. From this intersection the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues towards Point 6 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues towards Point 8 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues towards Point 12 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 13 and Point 14. From this intersection the boundary continues towards Point 14 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 15 and Point 16. From this intersection the boundary continues towards Point 16 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 17 and Point 18. From this intersection the boundary continues towards Point 18 until it intersects the shoreline. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 19 and Point 20. From this intersection the boundary continues towards Point 20 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east and then north and then west until it intersects the line segment formed between Point 21 and Point 22. From this intersection the boundary continues towards Point 22 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east and then north and then west until it intersects the line segment formed between Point 23 and Point 24. From this intersection the boundary continues towards Point 24 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 25 and Point 26. From this intersection the boundary continues towards Point 26 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 27 and Point 28. From this intersection the boundary continues towards Point 28 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally north and then east until it intersects the line segment formed between Point 29 and Point 30. From this intersection the boundary continues towards Point 30 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 31 and Point 32. From this intersection the boundary continues towards Point 32 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 33 and Point 34. From this intersection the boundary continues towards Point 35 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally south until it intersects the line segment formed between Point 36 and Point 37 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1*	24.67121	−81.69116
2*	24.67064	−81.69055
3*	24.67040	−81.69063
4*	24.66977	−81.69077
5*	24.66936	−81.69118
6*	24.66866	−81.69180
7*	24.66809	−81.69341
8*	24.66820	−81.69402
9*	24.66824	−81.69461
10*	24.66856	−81.69564
11*	24.66899	−81.69598
12*	24.66861	−81.69695
13*	24.66868	−81.69730
14*	24.66862	−81.69785

Point	Latitude	Longitude
15*	24.66876	−81.69814
16*	24.66961	−81.69805
17*	24.66999	−81.69847
18*	24.67044	−81.69861
19*	24.67121	−81.69800
20*	24.67132	−81.69766
21*	24.67168	−81.69848
22*	24.67243	−81.69841
23*	24.67377	−81.69850
24*	24.67412	−81.69866
25*	24.67461	−81.69839
26*	24.67488	−81.69850
27*	24.67502	−81.69888
28*	24.67581	−81.69883
29*	24.67604	−81.69760
30*	24.67656	−81.69672
31*	24.67642	−81.68895
32*	24.67529	−81.68934
33*	24.67312	−81.69109
34*	24.67292	−81.69091
35*	24.67227	−81.69186
36*	24.67121	−81.69116
37*	24.67064	−81.69055

Sawyer Key WMA

No Entry

The wildlife management area seaward boundary begins at Point 1 and continues west to Point 2. From Point 2 the boundary continues west towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline SW until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline SW until it intersects the line segment formed between Point 6 and the intersection of the shoreline and the line segment formed between Point 7 and Point 8. From this intersection the boundary continues SW to the intersection of the shoreline and the line segment formed between Point 7 and Point 8. From this intersection the boundary follows the shoreline generally north until it intersects the line segment formed between Point 9 and Point 10. From this intersection the boundary continues towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline NE until it intersects the line segment formed between Point 10 and Point 11. From this intersection the boundary follows the shoreline generally north and then east until it intersects the line segment formed between Point 12 and Point 13. From this intersection the boundary continues towards Point 13 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 14 and Point 15. From this intersection the boundary continues south to Point 16 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.75564	−81.55825
2	24.75565	−81.55869
3*	24.75564	−81.55915
4*	24.75537	−81.56027
5*	24.75502	−81.56068
6*	24.75390	−81.56322
7*	24.75174	−81.56691
8*	24.75186	−81.56706
9*	24.75761	−81.56705
10*	24.75769	−81.56691
11*	24.75785	−81.56602
12*	24.75830	−81.56476
13*	24.75826	−81.56416
14*	24.75880	−81.55778
15*	24.75851	−81.55730
16	24.75564	−81.55825

Snipe Keys WMA 2

Idle Speed No Wake

The wildlife management area seaward boundary begins at the intersection of the shoreline and the line segment formed between Point 1 and Point 2. From this intersection the boundary continues towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues towards Point 7 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 8 and Point 9. From this intersection the boundary continues towards Point 9 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 10 and Point 11. From this intersection the boundary continues towards Point 11 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it

intersects the line segment formed between Point 12 and Point 13. From this intersection the boundary continues towards Point 13 until it intersects the shoreline. From this intersection the boundary follows the shoreline NW until it intersects the line segment formed between Point 13 and Point 14. From this intersection the boundary continues NW to Point 14 and then west to Point 15. From Point 15 the boundary continues SW towards Point 16 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally SW until it intersects the line segment formed between Point 16 and Point 17. From this intersection the boundary continues towards Point 17 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 18 and Point 19. From this intersection the boundary continues west to Point 19 and then Point 20. From Point 20 the boundary continues towards Point 21 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 21 and Point 22. From this intersection the boundary continues towards Point 22 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 23 and Point 24. From this intersection the boundary continues towards Point 24 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 25 and Point 26. From this intersection the boundary continues towards Point 26 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 26 and Point 27. From this intersection the boundary continues NW to Point 27 and then to each successive point in numerical order until it reaches Point 34. From Point 34 the boundary continues east towards Point 35 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 36 and Point 37. From this intersection the boundary continues towards Point 37 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally east until it intersects the line segment formed between Point 38 and Point 39. From this intersection the boundary continues east to the intersection of the shoreline with the line segment formed between Point 40 and Point 41. From this intersection the boundary follows the shoreline east until it intersects with the line segment formed between Point 42 and Point 43. From this intersection the boundary continues east towards Point 43 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 44 and Point 45 where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1 *	24.69379	−81.66054
2 *	24.69368	−81.66045
3 *	24.69316	−81.66077
4 *	24.69355	−81.66239
5 *	24.69343	−81.66275
6 *	24.69298	−81.66378
7 *	24.69273	−81.66402
8 *	24.69167	−81.66801
9 *	24.69152	−81.66834
10 *	24.69174	−81.66910
11 *	24.69185	−81.67023
12 *	24.69241	−81.67087
13 *	24.69262	−81.67119
14	24.69293	−81.67142
15	24.69291	−81.67153
16 *	24.69285	−81.67160
17 *	24.69275	−81.67166
18 *	24.69278	−81.67176
19	24.69279	−81.67189
20	24.69276	−81.67206
21 *	24.69264	−81.67220
22 *	24.69259	−81.67231
23 *	24.69269	−81.67266
24 *	24.69263	−81.67287
25 *	24.69274	−81.67328
26 *	24.69281	−81.67341
27	24.69292	−81.67346
28	24.69343	−81.67337
29	24.69328	−81.67278
30	24.69330	−81.67221
31	24.69335	−81.67208
32	24.69327	−81.67196
33	24.69327	−81.67191
34	24.69335	−81.67182
35 *	24.69342	−81.67153
36 *	24.69345	−81.67122
37 *	24.69330	−81.67089
38 *	24.69295	−81.67030
39 *	24.69283	−81.67030
40 *	24.69309	−81.66963
41 *	24.69299	−81.66963
42 *	24.69337	−81.66454
43 *	24.69380	−81.66326
44 *	24.69379	−81.66054
45 *	24.69368	−81.66045

Snipe Keys WMA 3

No Motor

The wildlife management area seaward boundary begins at Point 1 at Snipe Keys and continues towards Point 2 until it intersects the shoreline. From this intersection the boundary follows the shoreline SE until it intersects the line segment formed between Point 2 and Point 3. From this intersection the boundary continues towards Point 3 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 4 and Point 5. From this intersection the boundary continues towards Point 5 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 6 and Point 7. From this intersection the boundary continues towards Point 7 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 7 and Point 8. From this intersection the boundary continues east to Point 8 and then to Point 9. From Point 9 the boundary continues towards Point 10 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 11 and Point 12. From this intersection the boundary continues towards Point 12 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 12 and Point 13. From this intersection the boundary continues to Point 13 and then Point 14. From Point 14 the boundary continues towards Point 15 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 15 and Point 16. From this intersection the boundary continues towards Point 16 until it intersects the shoreline. From this intersection the boundary follows the shoreline SE until it intersects the line segment formed between Point 17 and Point 18. From this intersection the boundary continues towards Point 18 until it intersects the shoreline. From this intersection the boundary follows the shoreline east until it intersects the line segment formed between Point 19 and Point 20. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 21 and Point 22. From this intersection the boundary continues towards Point 22 until it intersects the shoreline. From this intersection the boundary follows the shoreline NE and then east until it intersects the line segment formed between Point 23 and Point 24. From this intersection the boundary continues towards Point 24 until it intersects the shoreline. From this intersection the boundary follows the shoreline east and then south until it intersects the line segment formed between Point 25 and Point 26. From this intersection the boundary continues towards Point 26 until it intersects the shoreline. From this intersection the boundary follows the shoreline south and then west until it intersects the line segment formed between Point 27 and 28. From this intersection the boundary continues towards Point 28 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 29 and Point 30. From this intersection the boundary continues towards Point 30 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 30 and Point 31. From this intersection the boundary continues towards Point 31 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 31 and Point 33. From this intersection the boundary continues towards Point 33 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west until it intersects the line segment formed between Point 34 and Point 35. From this intersection the boundary continues towards Point 35 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally NW until it intersects the line segment formed between Point 36 and the intersection of the shoreline and the line segment formed between Point 37 and Point 38. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 37 and Point 38. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 39 and Point 40. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 41 and Point 42. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 43 and Point 44. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 45 and Point 46. From this intersection the boundary continues towards Point 47 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 48 and Point 49. From this intersection the boundary continues towards Point 49 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 50 and Point 51. From this intersection the boundary continues towards Point 51 until it intersects the shoreline. From this intersection the boundary follows the shoreline south until it intersects the line segment formed between Point 52 and Point 53. From this intersection the boundary continues towards Point 53 until it intersects the shoreline. From this intersection the boundary follows the shoreline west until it intersects the line segment formed between Point 54 and Point 55. From this intersection the boundary continues towards Point 55 until it intersects the shoreline. From this intersection the boundary follows the shoreline generally west and then north until it intersects the line segment formed between Point 56 and Point 57. From this intersection the boundary continues towards Point 57 until it intersects the shoreline. From this intersection the boundary follows the shoreline north until it intersects the line segment formed between Point 58 and the intersection of the shoreline and the line segment formed between Point 59 and Point 60. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 59 and Point 60. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 61 and Point 62. From this intersection the boundary follows the shoreline generally NE until it intersects the line segment formed between Point 63 and the intersection formed between the shoreline and the line segment formed between Point 64 and Point 65. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 64 and Point 65. From this intersection the boundary continues to the intersection of the shoreline and the line segment formed between Point 66 and Point 67. From this intersection the boundary continues NE to Point 67. From Point 67 the boundary continues east towards Point 68 until it intersects the shoreline. From this intersection the boundary follows the shoreline until it intersects the line segment formed between Point 69 and Point 70. From this intersection the boundary continues north to Point 70 and Point 71 and then generally east to each successive point in numerical order until it reaches Point 83. From Point 83 the boundary continues towards Point 84 until it intersects the shoreline where it ends. The inner landward boundary is defined by and follows the shoreline where not already specified.

Point	Latitude	Longitude
1	24.69292	−81.67346
2*	24.69281	−81.67341
3*	24.69274	−81.67328
4*	24.69263	−81.67287
5*	24.69269	−81.67266
6*	24.69259	−81.67231
7*	24.69264	−81.67220

Point	Latitude	Longitude
8	24.69276	−81.67206
9	24.69279	−81.67189
10 *	24.69278	−81.67176
11 *	24.69275	−81.67166
12 *	24.69285	−81.67160
13	24.69291	−81.67153
14	24.69293	−81.67142
15 *	24.69262	−81.67119
16 *	24.69241	−81.67087
17 *	24.69185	−81.67023
18 *	24.69174	−81.66910
19 *	24.69152	−81.66834
20 *	24.69167	−81.66801
21 *	24.69273	−81.66402
22 *	24.69298	−81.66378
23 *	24.69343	−81.66275
24 *	24.69355	−81.66239
25 *	24.68938	−81.66143
26 *	24.68868	−81.66151
27 *	24.68598	−81.66518
28 *	24.68574	−81.66543
29 *	24.68572	−81.66562
30 *	24.68573	−81.66580
31 *	24.68577	−81.66598
32 *	24.68592	−81.66595
33 *	24.68604	−81.66622
34 *	24.68655	−81.66859
35 *	24.68733	−81.66899
36 *	24.68843	−81.67065
37 *	24.68852	−81.67164
38 *	24.68869	−81.67164
39 *	24.68832	−81.67239
40 *	24.68849	−81.67241
41 *	24.68821	−81.67283
42 *	24.68836	−81.67294
43 *	24.68780	−81.67317
44 *	24.68798	−81.67334
45 *	24.68753	−81.67355
46 *	24.68768	−81.67373
47 *	24.68702	−81.67392
48 *	24.68598	−81.67433
49 *	24.68579	−81.67505
50 *	24.68506	−81.67548
51 *	24.68481	−81.67598
52 *	24.68454	−81.67621
53 *	24.68420	−81.67739
54 *	24.68415	−81.67947
55 *	24.68453	−81.67966
56 *	24.68780	−81.68024
57 *	24.68815	−81.68001
58 *	24.68838	−81.67997
59 *	24.68883	−81.67993
60 *	24.68880	−81.67979
61 *	24.68970	−81.67984
62 *	24.68965	−81.67964
63 *	24.69017	−81.67882
64 *	24.69054	−81.67760
65 *	24.69029	−81.67763
66 *	24.69055	−81.67730
67	24.69078	−81.67719
68 *	24.69099	−81.67589
69 *	24.69180	−81.67492
70	24.69239	−81.67474
71	24.69256	−81.67476
72	24.69262	−81.67462
73	24.69256	−81.67437
74	24.69243	−81.67423
75	24.69256	−81.67406
76	24.69260	−81.67391
77	24.69288	−81.67376
78	24.69290	−81.67369
79	24.69296	−81.67367
80	24.69300	−81.67364
81	24.69302	−81.67354

Point	Latitude	Longitude
82	24.69299	−81.67350
83	24.69292	−81.67346
84 *	24.69281	−81.67341

Appendix F to Subpart P of Part 922—Sanctuary Preservation Areas Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The boundary for the following Sanctuary Preservation Areas (SPA) begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table.

ALLIGATOR REEF SPA

Point	Latitude	Longitude
1	24.85383	−80.61950
2	24.84691	−80.60967
3	24.84002	−80.62083
4	24.84683	−80.62716
5	24.85383	−80.61950

CARYSFORT REEF SPA

Point	Latitude	Longitude
1	25.22734	−80.19447
2	25.19451	−80.20821
3	25.20476	−80.23208
4	25.23405	−80.21709
5	25.23671	−80.21573
6	25.23492	−80.21169
7	25.22734	−80.19447

CHEECA ROCKS SPA

Point	Latitude	Longitude
1	24.90367	−80.61917
2	24.90700	−80.61517
3	24.90417	−80.61283
4	24.90167	−80.61667
5	24.90367	−80.61917

COFFINS PATCH SPA

Point	Latitude	Longitude
1	24.67917	−80.97217
2	24.68433	−80.97467
3	24.69117	−80.96133
4	24.68533	−80.95883
5	24.67917	−80.97217

CONCH REEF SPA

Point	Latitude	Longitude
1	24.95800	−80.45783
2	24.95567	−80.45433
3	24.94986	−80.45703
4	24.94633	−80.45867
5	24.94933	−80.46217
6	24.95800	−80.45783

DAVIS REEF SPA

Point	Latitude	Longitude
1	24.92233	−80.50867
2	24.92683	−80.50450
3	24.92350	−80.50083
4	24.91850	−80.50583
5	24.92233	−80.50867

EASTERN DRY ROCKS SPA

Point	Latitude	Longitude
1	24.46200	−81.84767
2	24.46533	−81.84250
3	24.46217	−81.83883
4	24.45783	−81.84667
5	24.46200	−81.84767

HEN AND CHICKENS SPA

Point	Latitude	Longitude
1	24.93400	−80.55317
2	24.93967	−80.54767
3	24.93683	−80.54383
4	24.93100	−80.54917
5	24.93400	−80.55317

KEY LARGO DRY ROCKS—GRECIAN ROCKS SPA

Point	Latitude	Longitude
1	25.10502	−80.30565
2	25.10880	−80.31061
3	25.12650	−80.29850
4	25.12432	−80.29468
5	25.10502	−80.30565

LOOE KEY SPA

Point	Latitude	Longitude
1	24.55200	−81.41350
2	24.55400	−81.40050
3	24.54500	−81.39750
4	24.54200	−81.41167
5	24.54745	−81.41267
6	24.55200	−81.41350

MOLASSES REEF SPA

Point	Latitude	Longitude
1	25.01767	−80.36400
2	25.00483	−80.37833
3	25.01200	−80.38050
4	25.01667	−80.37550
5	25.01767	−80.36400

NEWFOUND HARBOR KEY SPA

Point	Latitude	Longitude
1	24.61233	−81.39667
2	24.61667	−81.39767
3	24.61833	−81.38900
4	24.61417	−81.38800
5	24.61233	−81.39667

SAND KEY SPA

Point	Latitude	Longitude
1	24.45033	−81.88250
2	24.46017	−81.88233
3	24.45967	−81.87150
4	24.45017	−81.87200
5	24.45033	−81.88250

SOMBRERO KEY SPA

Point	Latitude	Longitude
1	24.62983	−81.11863
2	24.63398	−81.10694
3	24.62500	−81.10317
4	24.62083	−81.11483
5	24.62983	−81.11863

THE ELBOW SPA

Point	Latitude	Longitude
1	25.14950	−80.26050
2	25.14917	−80.25367
3	25.13633	−80.26067
4	25.14167	−80.26783
5	25.14320	−80.26640
6	25.14720	−80.26266
7	25.14950	−80.26050

TURTLE ROCKS SPA

Point	Latitude	Longitude
1	25.27452	−80.23195
2	25.28222	−80.24276
3	25.31600	−80.21793
4	25.30578	−80.20878
5	25.27452	−80.23195

TURTLE SHOAL SPA

Point	Latitude	Longitude
1	24.73452	−80.92027
2	24.72375	−80.91202
3	24.71386	−80.93661
4	24.72406	−80.94341
5	24.73452	−80.92027

Appendix G to Subpart P of Part 922—Conservation Areas Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The boundary for the following Conservation Areas begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table.

CONCH REEF CONSERVATION AREA

Point	Latitude	Longitude
1	24.95167	−80.44883
2	24.94717	−80.45433
3	24.94986	−80.45703
4	24.95567	−80.45433
5	24.95167	−80.44883

EASTERN SAMBO CONSERVATION AREA

Point	Latitude	Longitude
1	24.48950	−81.66600
2	24.49617	−81.66717
3	24.49733	−81.65983
4	24.49250	−81.65583
5	24.48950	−81.66600

TENNESSEE REEF CONSERVATION AREA

Point	Latitude	Longitude
1	24.77003	−80.75115
2	24.75788	−80.74189
3	24.75157	−80.75147
4	24.76495	−80.75955
5	24.77003	−80.75115

TORTUGAS NORTH CONSERVATION AREA

Point	Latitude	Longitude
1	24.76667	−83.10000
2	24.76667	−82.90000
3	24.76333	−82.80000
4	24.72610	−82.80000
5	24.72537	−82.86646
6	24.71690	−82.89975
7	24.65000	−82.96674
8	24.65000	−83.10000
9	24.76667	−83.10000

TORTUGAS SOUTH CONSERVATION AREA

Point	Latitude	Longitude
1	24.55017	−83.16643
2	24.55000	−83.08333
3	24.30000	−83.08333
4	24.30084	−83.16711
5	24.55017	−83.16643

Western Sambo Conservation Area

The Western Sambo Conservation Area boundary begins approximately 6 miles south of Boca Chica Key at Point 1. From Point 1 the boundary continues to Point 2 and Point 3. From Point 3 the boundary continues towards Point 4 until it intersects the shoreline. From this intersection the boundary continues east following the shoreline until it intersects the line segment formed between Point 5 and Point 6. From this intersection the boundary continues to Point 6 and ends at Point 7.

Point	Latitude	Longitude
1	24.47295	−81.70024
2	24.46655	−81.72928
3	24.49877	−81.72544
4*	24.55794	−81.71838
5*	24.56201	−81.67996
6	24.50469	−81.69301
7	24.47295	−81.70024

Note: The coordinates in the table above marked with an asterisk (*) are not a part of the zone's boundary. These coordinates are landward reference points used to draw a line segment that intersects with the shoreline.

Within the Western Sambo Conservation Area, an additional no anchor zone surrounds the offshore reef tract. The boundary for the Western Sambo Conservation Area No Anchor zone begins at Point 1 and continues to each successive point in numerical order until ending at Point 5.

Western Sambo Conservation Area

NO ANCHOR

Point	Latitude	Longitude
1	24.49877	−81.72544
2	24.50469	−81.69301
3	24.47295	−81.70024
4	24.46655	−81.72928
5	24.49877	−81.72544

Appendix H to Subpart P of Part 922—Restoration Areas—Habitat Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The boundary for the following Restoration Areas—Habitat zones begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table.

CHEECA ROCKS EAST RESTORATION AREA—HABITAT

Point	Latitude	Longitude
1	24.90299	−80.61106
2	24.90298	−80.60901
3	24.90194	−80.60902
4	24.90195	−80.61106
5	24.90299	−80.61106

CHEECA ROCKS SOUTH RESTORATION AREA—HABITAT

Point	Latitude	Longitude
1	24.89782	−80.62210
2	24.89846	−80.61492
3	24.89581	−80.61500
4	24.89587	−80.62216
5	24.89782	−80.62210

HORSESHOE REEF RESTORATION AREA—HABITAT

Point	Latitude	Longitude
1	25.13797	−80.29796
2	25.14422	−80.29317
3	25.13806	−80.28500
4	25.13196	−80.28979
5	25.13797	−80.29796

PICKLES REEF RESTORATION AREA—HABITAT

Point	Latitude	Longitude
1	24.97864	−80.43372
2	24.97866	−80.44120
3	24.98488	−80.44055
4	24.98459	−80.43332
5	24.97864	−80.43372

Appendix I to Subpart P of Part 922—Restoration Areas—Nursery Boundary Coordinates

Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983.

The boundary for the following Restoration Areas—Nursery zones begins at each individual zone's Point 1 and continues to each successive point in numerical order until ending at that same zone's last point as listed in its specific coordinate table.

CARYSFORT REEF RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	25.23492	−80.21169
2	25.23231	−80.21302
3	25.23405	−80.21709
4	25.23671	−80.21573
5	25.23492	−80.21169

LOOE KEY EAST RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.55911	−81.40124
2	24.56385	−81.40272
3	24.56554	−81.39802
4	24.56109	−81.39638
5	24.55911	−81.40124

LOOE KEY WEST RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.55149	−81.41663
2	24.55200	−81.4135
3	24.54745	−81.41267
4	24.54705	−81.41568
5	24.55149	−81.41663

MARATHON RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.66333	−81.02078
2	24.66333	−81.02780
3	24.66986	−81.02781
4	24.66986	−81.02078
5	24.66333	−81.02078

MARKER 32 RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.47712	−81.77809
2	24.48104	−81.77811
3	24.48105	−81.77368
4	24.47717	−81.77372
5	24.47712	−81.77809

MIDDLE KEYS RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.65659	−81.02141
2	24.65858	−81.01799
3	24.65533	−81.01548
4	24.65337	−81.01932
5	24.65659	−81.02141

SAND KEY RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.45983	−81.88394
2	24.45605	−81.88389
3	24.45603	−81.88804
4	24.45981	−81.88808
5	24.45983	−81.88394

TAVERNIER RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	24.98883	−80.42110
2	24.99140	−80.41819
3	24.98708	−80.41356
4	24.98417	−80.41647
5	24.98883	−80.42110

THE ELBOW RESTORATION AREA—NURSERY

Point	Latitude	Longitude
1	25.14320	−80.26640
2	25.14515	−80.26901
3	25.14928	−80.26534
4	25.14720	−80.26266
5	25.14320	−80.26640

Appendix J to Subpart P of Part 922—Revised Designation Document for the Florida Keys National Marine Sanctuary

Article I. Designation and Effect

On November 16, 1990, the Florida Keys National Marine Sanctuary and Protection Act, Public Law 101–605 (16 U.S.C. 1433 note), became law. That Act designated an area of waters and submerged lands, including the living and nonliving resources within those waters, as described therein, as the Florida Keys National Marine Sanctuary (sanctuary). In 2001, the boundary of the sanctuary was expanded to include important coral reefs and other resources in two areas west of the Dry Tortugas National Park, including Sherwood Forest and Riley's Hump. By this revised Designation Document, the boundary of the sanctuary is further expanded to include areas: (a) north of the existing northern extent of the sanctuary, offshore of Miami-Dade County, to align with the Area To Be Avoided, (b) seaward of the existing southern boundary of the sanctuary to align with the Area To Be Avoided, (c) at the far western end of the existing sanctuary boundary, to extend by approximately one mile westward and encompass the outer boundaries of the Tortugas South Conservation Area (formerly the Tortugas South Ecological Reserve) and square off the sanctuary boundary in its northwestern corner, and (d) encompassing Pulley Ridge, north and west of the westernmost boundary and as a distinct segment of the sanctuary.

Section 304 of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1434, authorizes the Secretary of Commerce to issue such regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, scientific, educational, cultural, archaeological or aesthetic resources and qualities of a national marine sanctuary. Section 1 of Article IV of this Designation Document lists activities of the type that are presently being regulated or may have to be regulated in the future, in order to protect sanctuary resources and qualities. Listing in section 1 does not mean that a type of activity will be regulated in the future, however, if a type of activity is not listed, it may not be regulated, except on an emergency basis, unless section 1 is amended, following the procedures for designation of a sanctuary set forth in paragraphs (a) and (b) of section 304 of the NMSA, to include the type of activity.

Nothing in this Designation Document is intended to restrict activities that do not cause an adverse effect on the resources or qualities of the sanctuary or on sanctuary property or that do not pose a threat of harm to users of the sanctuary.

Article II. Description of the Area

The Florida Keys National Marine Sanctuary boundary encompasses a total of approximately 3,622 square nautical miles (4,797 square statute miles) of coastal, ocean, and Gulf of Mexico waters, and the submerged lands thereunder, surrounding the Florida Keys in south Florida. The northernmost point of the sanctuary lies just east of Miami and Key Biscayne, and the westernmost point is approximately 60 miles to the west of the western boundary of Dry Tortugas National Park at Pulley Ridge, a linear, arcing distance of approximately 290 miles. The contiguous area boundary on the Atlantic Ocean side of the Florida Keys runs south from just north of Biscayne National Park generally curving in a southwesterly direction along the Florida Keys archipelago until southwest of the Dry Tortugas and Loggerhead Key. The contiguous area boundary on the Gulf of Mexico side of the Florida Keys continues from this southwestern point to the north approximately 32 miles until it reaches a point northwest of Loggerhead Key and the Dry Tortugas. The boundary then continues east to approximately 8 miles north of Cottrell Key, and then from there it continues generally to the northeast to just north of Sprigger Bank. The boundary then generally approximates the southeastern Everglades National Park boundary until it continues along the western shore of Manatee Bay, Barnes Sound, and Card Sound. The boundary then generally approximates the southern boundary of Biscayne National Park and continues to do so north along the park's eastern boundary until it reaches the sanctuary's northeastern most point.

In addition, the sanctuary boundary includes a non-contiguous section encompassing Pulley Ridge and the Gulf of Mexico waters and lands thereunder to the west of the contiguous boundary area. Pulley Ridge is a carbonate ridge that extends nearly 186 miles along the southwest Florida Shelf in the eastern Gulf of Mexico, approximately 41 miles west of the Dry Tortugas and is entirely oceanic with no landward boundary.

The landward boundary of the contiguous sanctuary area is the shoreline as defined by the mean high-water line. The Dry Tortugas National Park is not included within the sanctuary and the inner sanctuary boundary in this location is coterminous with this national park boundary. The sanctuary boundary encompasses the entire Florida coral reef tract, all of the mangrove islands of the Florida Keys, and some of the seagrass meadows of the Florida Keys. The precise boundary of the sanctuary is set forth at the end of this Designation Document.

Article III. Characteristics of the Area That Give it Particular Value

The Florida Keys extend approximately 223 miles southwest from the southern tip of the Florida peninsula. Adjacent to the Florida Keys land mass are located spectacular unique, nationally significant marine environments, including seagrass meadows, mangrove islands, and extensive living coral reefs. These marine environments support rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and aesthetic values which give this area special national significance. These environments are the marine equivalent of tropical rain forests in that they support high levels of biodiversity, are fragile and easily susceptible to damage from human activities, and possess high value to humans if properly conserved. These marine environments are subject to damage and loss of their ecological integrity from a variety of sources of disturbance.

The Florida Keys are a limestone island archipelago. The Keys are located at the southern edge of the Florida Plateau, a large

carbonate platform made of a depth of up to 7000 meters of marine sediments, which have been accumulating for 150 million years and which have been structurally modified by subsidence and sea level fluctuation. The Keys region is generally divided into five distinct areas: the Florida reef tract, one of the world's largest coral reef tracts and the only barrier reef in the United States; Florida Bay, a large, shallow seagrass-dominated estuary and world-famous game fishing region that sits at the interface between the Florida Everglades and the Florida Reef Tract; the Southwest Continental Shelf; the Straits of Florida; and the Keys themselves.

The more than three million-acre sanctuary contains one of North America's most diverse assemblages of terrestrial, estuarine, and marine fauna and flora. In addition to the Florida reef tract, the sanctuary includes thousands of patch reefs, various hardbottom habitats, mangrove fringed shorelines and mangrove islands, and a substantial portion of one of the world's largest seagrass communities that covers 3.6 million acres of the nearshore marine environment in south Florida. The sanctuary area at Pulley Ridge supports the deepest known photosynthetic coral reef off the continental United States. These diverse habitats provide shelter and food for thousands of species of marine plants and animals, including more than 50 species of animals identified under Federal or State law, as endangered or threatened. The Keys were at one time a major seafaring center for European and American trade routes to the Caribbean, and the submerged cultural and historic resources (*i.e.,* shipwrecks) abound in the surrounding waters. In addition, the sanctuary contains substantial archaeological resources of pre-European cultures.

The uniqueness of the marine environment draws multitudes of visitors to the Keys. The major industry in the Florida Keys is tourism, including activities related to the Keys' marine resources, such as dive shops, charter fishing and dive boats and marinas, as well as hotels and restaurants. The abundance of the resources also supports a large commercial fishing employment sector.

The number of visitors to the Keys grows each year, with a concomitant increase in the number of residents, homes, jobs, and businesses. As population grows and the Keys accommodate ever-increasing resource use pressures, the quality and quantity of sanctuary resources are increasingly threatened. These pressures require coordinated and comprehensive monitoring and researching of the Florida Keys' region.

Article IV. Scope of Regulations

Section 1. Activities Subject to Regulation

The following activities are subject to regulation under the NMSA, either throughout the entire sanctuary or within identified portions of it or, as indicated, in areas beyond the boundary of the sanctuary, to the extent necessary and reasonable. Such regulation may include prohibitions to ensure the protection and management of the conservation, recreational, ecological, historical, scientific, educational, cultural, archaeological or aesthetic resources and qualities of the area. Because an activity is listed here does not mean that such activity is being or will be regulated. Listing an activity here means that Secretary of Commerce can regulate the activity, after complying with all applicable regulatory laws, without going through the designation procedures required by paragraphs (a) and (b) of section 304 of the NMSA, 16 U.S.C. 1434(a) and (b). Further, no regulation issued under the authority of the NMSA except an emergency and/or temporary regulation issued with the approval of the Governor of the State of Florida may take effect in Florida State waters within the sanctuary if the Governor of the State of Florida certifies to the Secretary of Commerce that such regulation is unacceptable within the forty-five day review period specified in NMSA.

Activities Subject to Regulation:

1. Mineral or hydrocarbon exploration, development, or production;

2. Destroying, causing the loss of, or injuring coral or live rock or attempting to do so;

3. Altering or placing any structure, object, or other material on the seabed, except as authorized by appropriate permits or as part of lawful fishing;

4. Discharging or depositing any material, or discharging or depositing any material beyond the sanctuary that then enters the sanctuary and injures a sanctuary resource or quality;

5. Operating a vessel, including anchoring, in a manner that may destroy, cause the loss of, or injure sanctuary resources or property; or in a manner that may injure or endanger the life of sanctuary users;

6. Diving in a manner that could harm sanctuary resources, sanctuary property, or other users of the sanctuary;

7. Stocking within the sanctuary or releasing within or from beyond the boundary of the sanctuary, any non-native or exotic species;

8. Defacing, marking, or damaging in any way or displacing, removing, or tampering with any markers, signs, notices, placards, navigational aids, monuments, stakes, posts, mooring buoys, boundary buoys, trap buoys, or scientific equipment;

9. Moving, removing, injuring, preserving, curating, and managing historic resources;

10. Taking, removing, moving, catching, collecting, harvesting, feeding, attracting, injuring, destroying, or causing the loss of, or attempting to take, remove, move, catch, collect, harvest, feed, attract, injure, destroy, or cause the loss of any sanctuary resource;

11. Conducting or attempting to conduct any manner of activities within specially designated marine areas, including removing, injuring or disturbing any living or dead organism or bottom formation; possessing or using certain fishing gear; operating or anchoring vessels; entering areas; and diving;

12. Harvesting marine life species except as regulated by the State of Florida;

13. Possessing or using explosives, electrical charges, or toxic substances within the sanctuary, or using explosives, electrical charges, or toxic substances beyond the sanctuary that then enter the sanctuary and injure a sanctuary resource or quality;

14. Abandoning fishing gear or vessels; and removing (including salvaging) fishing gear and grounded, derelict, or abandoned vessels;

15. Maintaining or deserting a derelict vessel or vessel at risk of becoming derelict; and leaving harmful matter aboard a grounded or deserted vessel; and,

16. Interfering with any enforcement action.

Section 2. Emergency and/or Temporary Regulation

Any and all activities are subject to immediate emergency and/or temporary regulation, including any not listed in Section 1 of this article. However, no such regulation may take effect in Florida State waters within the sanctuary without the approval of the Governor of the State of Florida.

Article V. Effect on Leases, Permits, Licenses, and Rights

Pursuant to paragraph (c)(1) of section 304 of the NMSA, 16 U.S.C. 1434(c)(1), a person may conduct an activity prohibited by sanctuary regulations if such activity is specifically authorized by a valid Federal, State, or local lease, permit, license, approval, or other authorization or right in existence prior to the effective date of these revised terms of designation, provided that the holder of the lease, permit, license, approval, or other authorization complies with the procedures outlined in this subpart and subpart E.

However, in no event may the Secretary of Commerce or his or her designee issue any form of approval for the: (1) exploration, leasing, development, or production of minerals or hydrocarbons; (2) disposal of dredged material within the sanctuary other than in connection with beach renourishment or sanctuary restoration projects; or (3) discharge of untreated or primary treated sewage. Any purported authorizations issued by other authorities for any of these activities within the sanctuary shall be invalid.

Article VI. Alteration of This Designation

The terms of designation, as defined in paragraph (a) of section 304 of the NMSA, 16 U.S.C. 1434(a), may be modified only by the procedures outlined in paragraphs (a) and (b) of section 304 of the NMSA, 16 U.S.C. 1434(a) and (b), including public hearings, consultation with interested federal, state, and local government agencies, review by the appropriate Congressional committees, review by the Governor of the State of Florida, and approval by the Secretary of Commerce, or his or her designee. No designation, term of designation, or implementing regulation may take effect in Florida State waters within the sanctuary if the Governor of the State of Florida certifies to the Secretary of Commerce that such designation or term of designation regulation is unacceptable within the forty-five day review period specified in NMSA.

Florida Keys National Marine Sanctuary Boundary Coordinates

The Florida Keys National Marine Sanctuary (sanctuary) encompasses an area of 3,622 square nautical miles (4,797 square miles) of coastal, ocean, and Gulf of Mexico

waters and the submerged lands thereunder from the boundary to the shoreline as defined by the mean high water tidal datum surrounding the Florida Keys in southern Florida. The precise boundary coordinates are listed in Appendix I to this Subpart.

The sanctuary boundary begins approximately 4 miles east of the northern extent of Key Biscayne at Point 1 and continues roughly south and then southwest and west in numerical order to Point 15 approximately 27 miles SW of Loggerhead Key. From Point 15 the sanctuary boundary continues north to Point 17 which is approximately 18 miles NW of Loggerhead Key and then continues roughly east in numerical order to Point 23 just north of Sprigger Bank. From Point 23 the boundary continues in numerical order roughly SE to Point 26 just north of Old Dan Bank. From Point 26 the boundary continues NE in numerical order through Bowlegs Cut and Steamboat Channel to Point 42 near the southern entrance to Cowpens Cut west of Plantation Key.

From Point 42 the boundary continues towards Point 43 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNE until it intersects the line segment formed between Point 44 and Point 45.

From this intersection the boundary continues NNE to Point 45 and then roughly NE in numerical order to Point 61 just west of Hammer Point in Tavernier, FL. From Point 61 the boundary continues in numerical order roughly north and then NW to Point 64 just west of Pigeon Key. From Point 64 the boundary continues in numerical order roughly NE then NNE through Baker Cut to Point 69. From Point 69 the boundary continues in numerical order roughly NE through Buttonwood Sound to Point 73.

From Point 73 the boundary continues towards Point 74 until it intersects the shoreline near the southern entrance to Grouper Creek west of Key Largo, FL. From this intersection the boundary follows the shoreline NE along Grouper Creek until it intersects the line segment formed between Point 75 and Point 76. From this intersection the boundary continues towards Point 76 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly east until it intersects the line segment formed between Point 77 and Point 78.

From this intersection the boundary continues to Point 78 and then roughly ESE in numerical order through Tarpon Basin to Point 85. From Point 85 the boundary continues NE and then NW to Point 92.

From Point 92 the boundary continues towards Point 93 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly north along Dusenberry Creek until it intersects the line segment formed between Point 94 and Point 95.

From this intersection the boundary continues to Point 95 and then NE in numerical order through Blackwater Sound to Point 102 south of the entrance to Jewfish Creek.

From Point 102 the boundary continues towards Point 103 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNE and then NW until it intersects the line segment formed between Point 104 and Point 105. From this intersection the boundary continues towards Point 105 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNE and then roughly west along southwestern Barnes Sound and around Division Point until it intersects the line segment formed between Point 106 and Point 107 near Manatee Creek east of Long Sound. From this intersection the boundary continues towards Point 107 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly NNW until it intersects the line segment formed between Point 108 and Point 109. From this intersection the boundary continues towards Point 109 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly east until it intersects the line segment formed between Point 109 and 110. From this intersection the boundary continues towards Point 110 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly north and then NE until it intersects the line segment formed between Point 111 and Point 112. From this intersection the boundary continues towards Point 112 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly east and then north around Bay Point and then west until it intersects the line segment formed between Point 113 and Point 114. From this intersection the boundary continues towards Point 114 until it intersects the shoreline. From this intersection the boundary follows the shoreline north along the western side of Manatee Bay until it intersects the line segment formed between Point 115 and Point 116. From this intersection the boundary continues towards Point 116 until it intersects the shoreline.

From this intersection the boundary follows the shoreline around northern Manatee Bay and Barnes Sound until it intersects the line segment formed between Point 117 and Point 118. From this intersection the boundary continues towards Point 118 until it intersects the shoreline. From this intersection the boundary follows the shoreline roughly to the SE south of FL State Route 905A—Card Sound Road then NW and roughly north along western Little Card Sound and then Card Sound cutting off the mouths of canals and drainage ditches until it intersects the line segment formed between Point 119 and Point 120 south of Midnight Pass. From this intersection the boundary continues to Point 120 and then roughly SE to each successive point in numerical order approximating the southern boundary of Biscayne National Park to Point 142 approximately 3 miles ENE of Turtle Rocks. From Point 142 the boundary continues roughly N to each successive point in numerical order ending at Point 158.

The inner landward sanctuary boundary is defined by and follows the shoreline where not already specified in the description above.

Pulley Ridge, located along the southwest Florida Shelf in the eastern Gulf of Mexico, is included as a part of the FKNMS, and the sanctuary boundary for this area begins approximately 52 miles NW of Loggerhead Key at Point PR1 and continues to each successive point in numerical order ending at Point PR9.

Dry Tortugas National Park is not included within the FKNMS and the inner sanctuary boundary in this area is coterminous with this national park boundary and begins at Point DT1 and continues in numerical order counterclockwise around the national park ending at Point DT10.

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Part III

Federal Communications Commission

47 CFR Parts 0 and 64
Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[CG Docket No. 17–59, WC Docket No. 17–97; FCC 22–37, FR ID 91946]

Advanced Methods To Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) takes further steps to stem the tide of foreign-originated illegal robocalls by placing new obligations on the gateway providers that are the entry point or foreign calls into the United States by requiring them to play a more active role in the fight.

DATES:

Effective date: This rule is effective September 16, 2022.

Compliance date: Compliance with the amendments to 47 CFR 64.1200(n)(1) and (o), 64.6303(b), and 64.6305(b), (c)(2), (d), and (e)(2) and (3), are delayed indefinitely. The Federal Communications Commission will publish a document in the **Federal Register** announcing the compliance dates.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan Lechter, Competition Policy Division, Wireline Competition Bureau, at (202) 418–0984, *jonathan.lechter@fcc.gov*; or Jerusha Burnett, Attorney Advisor, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at (202) 418–0526, *jerusha.burnett@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Sixth Report and Order* in CG Docket No. 17–59 and *Fifth Report and Order* in WC Docket No. 17–97 *Order on Reconsideration* and *Order* in WC Docket No. 17–97 adopted on May 19, 2022 and released on May 20, 2022 (*Gateway Provider Report and Order*). The document is available for download at *https://docs.fcc.gov/public/attachments/FCC-22-37A1.pdf*. Compliance with the amendments to 47 CFR 64.1200(n)(1) and (o), 64.6303(b), and 64.6305(b), (c)(2), and (d), which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB), and the amendments to 47 CFR 64.6305(e)(2) and (3), are delayed indefinitely. The Federal Communications Commission will publish a document in the **Federal Register** announcing the compliance dates.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

I. Sixth Report and Order and Fifth Report and Order

1. In this document, the Commission takes steps to protect consumers from foreign-originated illegal robocalls. Gateway providers' networks are the key entry point for foreign-originated robocalls, and the authentication and mitigation requirements the Commission adopts will ensure that American consumers are protected. The Commission defines the term ''gateway provider,'' requires such providers to authenticate all unauthenticated Session Initiation Protocol (SIP) calls in the internet Protocol (IP) portions of their networks, and adopts mitigation requirements specific to such providers, including requirements related to the Robocall Mitigation Database. As explained below, the Commission finds that the benefits of these new requirements, particularly to American consumers deluged by illegal calls originating in other countries, will far outweigh the short-term implementation costs imposed on gateway providers.

A. Need for Action

2. *Current Rules Addressing Foreign-Originated Robocalls Are Insufficient to Stop the Deluge of Illegal Robocalls Originating Abroad.* As proposed, the Commission concludes that consumers will benefit from caller ID authentication and illegal robocall mitigation requirements applied to gateway providers to address the problem of foreign-originated illegal robocalls (86 FR 59084, (Oct. 26, 2021)).

3. Commenters overwhelmingly support additional action to stop the flood of foreign-originated illegal calls. For example, Comcast agrees with the Commission that the current rules ''are not sufficient to resolve the problem of foreign-originated illegal robocalls'' and that the robocall landscape ''warrants consideration of further regulatory efforts targeting gateway providers.'' The State attorneys general also support steps to stop the ''continued deluge of illegal foreign-based robocalls that use spoofed, U.S.-based phone numbers.''

4. Foreign robocallers use U.S. North American Numbering Plan (NANP) numbers in myriad ways to reach U.S. end users. In some cases, the foreign robocallers utilize spoofed U.S. numbers, while in other cases they have obtained U.S. NANP numbers from providers who have themselves obtained numbers on the secondary market or directly from the North American Numbering Plan Administrator (NANPA).

5. Commenting parties agree that foreign-originated calls are a significant portion, if not the majority, of illegal robocalls. The latest data from the Industry Traceback Group support the conclusion that many providers facilitating illegal robocalls are gateway providers and the upstream foreign originating and intermediate providers from whom they receive foreign-originating calls. Of the 347 providers identified in the Industry Traceback Group's 2021 report as responsible for transmitting illegal robocalls, 111 were gateway providers that brought the traffic into the U.S. network, and 115 were foreign providers originating illegal robocalls. According to the Industry Traceback Group, 10% of all providers that are not responsive to traceback requests constitute 48% of all non-responsive traceback requests. Of that 10%, over two-thirds are foreign providers. Recent action after the release of the *Gateway Provider Further Notice of Proposed Rulemaking (Gateway Provider FNPRM),* 86 FR 59084, (Oct. 26, 2021), by the Commission's Enforcement Bureau underscores the need for action against foreign-originated robocalls, including cease-and-desist letters the Enforcement Bureau sent to three companies for transmitting illegal robocalls, ''many of which originate overseas.''

6. *Role of Gateway Providers.* The Commission concludes that gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers, a conclusion confirmed by the record. Gateway providers can stop illegal calls to customers before they reach terminating providers, or, as the Industry Traceback Group data demonstrates, readily allow such calls into the U.S. market. State attorneys general argue that ''in most cases'' robocalling fraud results from ''foreign actors gaining access to the U.S. phone network through international gateway providers.'' State actions against gateway providers following the *Gateway Provider FNPRM* reinforce this conclusion.

B. Scope of Requirements and Definition

7. *Definition of Gateway Provider.* The Commission defines a ''gateway provider'' as a U.S.-based intermediate provider that receives a call directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider, a slightly modified version of the definition the Commission proposed in the *Gateway Provider FNPRM.* By ''U.S.-based,'' the Commission means that the provider has facilities located in the U.S., including a point of presence capable of processing the call. By ''receives a call directly'' from a provider, the Commission means the foreign provider directly upstream of the gateway provider in the call path sent the call to the gateway provider, with no providers in-between. Commenters support the Commission's proposed definition, with some suggesting minor modifications addressed below.

8. In the *Gateway Provider FNPRM,* the Commission initially proposed to define a gateway provider as ''the first U.S.-based intermediate provider in the call path of a foreign-originated call that transmits the call directly to another intermediate provider or a terminating voice service provider in the United States.'' The Commission adds ''receives a call directly from a foreign originating provider or foreign intermediate provider'' and drop ''foreign-originated call'' from its adopted definition for several reasons. First, as commenters note, a gateway provider may not know the identity or location of the entity that originated the call, but it will know the identity of the immediate upstream provider that sent the call to the gateway provider, including whether that provider has registered as a foreign provider in the Robocall Mitigation Database. (As explained below, the Commission clarifies foreign intermediate providers' traffic will be blocked unless they register in the Robocall Mitigation Database.) The Commission's adopted definition ensures that a provider will be considered a gateway provider for any call it receives directly from a foreign provider that the provider does not itself terminate. Second, the Commission's definition ensures that calls sent on a circuitous path out of and then back into the U.S. will be brought within the regime. In that scenario, the U.S.-based provider acts as a gateway provider at the point in the call path when the foreign provider immediately upstream of the gateway provider sends the call to the gateway provider, even for calls originated within the United States. The Commission agrees with commenters that ''U.S.-based facilities'' for the purpose of the Commission's definition means that the provider has facilities in the U.S., including, at a minimum, a U.S.-located point of presence.

9. The Commission clarifies that foreign affiliates of a U.S.-based provider or other U.S.-licensed entities that receive traffic in another country and transmit that traffic to another provider to bring across the boundary of the U.S. network are not gateway providers. As proposed, the Commission does not include in the definition providers that also terminate the call because they are then acting as terminating providers and are subject to the existing rules applicable to such providers. In their capacity as terminating providers, these providers have existing obligations to prevent their own end users from receiving illegal robocalls. (A terminating provider is a voice service provider for purposes of section 4 of the TRACED Act and the Commission's caller ID authentication rules. A voice service provider is required to, among other things, verify caller ID information pursuant to STIR/SHAKEN for traffic it terminates, 47 CFR 64.6301(a)(3), and submit a certification to the Robocall Mitigation Database.)

10. Because the TRACED Act defines ''voice service'' in a manner that excludes intermediate providers, the authentication and Robocall Mitigation Database rules use ''voice service provider'' in this manner. The Commission's call blocking rules, many of which the Commission adopted prior to adoption of the TRACED Act, use a definition of ''voice service provider'' that includes intermediate providers. In that context, use of the TRACED Act definition of ''voice service'' would create inconsistency with the existing rules. To avoid confusion, for purposes of this item, the Commission uses the term ''voice service provider'' consistent with the TRACED Act definition and where discussing caller ID authentication or the Robocall Mitigation Database. In all other instances, the Commission uses ''provider'' and specifies the type of provider as appropriate. Unless otherwise specified, the Commission means any provider, regardless of its position in the call path.

11. *Call-by-Call Basis.* Consistent with the proposal in the *Gateway Provider FNPRM,* the Commission adopts the gateway provider classification on a call-by-call basis. That is, a provider is a gateway provider and subject to the rules for gateway providers the Commission adopts in this document only for those calls for which it acts as a gateway provider unless otherwise noted.

12. As the Commission noted in the *Gateway Provider FNPRM,* the Commission took this approach when classifying intermediate and voice service providers with respect to the Commission's caller ID authentication rules. The Commission adopts the call-by-call classification to ensure that gateway providers, due to their key role in the call path, are subject to the requirements. There is record support for this approach. Concluding that the burdens are overstated, the Commission rejects concerns of commenters that assert that the call-by-call classification would not be administratively feasible, and would potentially impose two different sets of regulations on the same set of providers, causing confusion. As the Commission notes, and a number of commenters agree, a gateway provider will know the identity of the immediate upstream provider from which it receives a call. (As explained below, the Commission clarifies foreign intermediate providers' traffic will be blocked unless they register in the Robocall Mitigation Database.) The gateway provider will also know whether that provider has registered as a foreign provider in the Robocall Mitigation Database. The Commission's approach ensures that a gateway provider is subject to the consumer protection requirements it adopts whenever it receives a call directly from a foreign provider.

13. Moreover, a call-by-call approach will have a limited practical burden for several reasons. As an initial matter, several of the obligations the Commission adopts do not require a gateway provider or providers downstream from the gateway provider to determine, in real time, whether or not the relevant provider is acting as a gateway provider for a particular call. First, the 24-hour traceback requirement and know-your-upstream provider requirements do not involve any real-time action on the part of a gateway provider when it receives the call. Second, the obligation to block traffic upon notification by the Commission applies only to those entities identified by the Commission, so that providers need not identify relevant traffic in real-time in the first instance. Third, if a provider acts as a gateway provider for *any* calls, it must submit a robocall mitigation plan to the Robocall Mitigation Database describing how it mitigates calls in its role as a gateway provider *generally.* Fourth, where a downstream provider needs to block

traffic from an upstream provider that has not filed in the Robocall Mitigation Database, it is required to do so if it has reason to believe it is a gateway or voice service provider for *any* calls. Additionally, while gateway providers must undertake call blocking on a call-by-call basis at the time of the call for numbers on a Do Not Originate (DNO) list, all domestic providers in the call path are already permitted to engage in such blocking and can therefore elect to apply such blocking to all calls, rather than simply the calls for which they act as a gateway provider. Similarly, while gateway providers must take ''reasonable steps'' to mitigate calls received as a gateway provider on a call-by-call basis, the burden of identifying the relevant calls is likely low; gateway providers should know those calls they receive from foreign providers and send downstream to another domestic provider and can apply the appropriate mitigation procedures to those calls. Indeed, several stated that they already do so. At a minimum, to the extent a provider receives a call directly from a provider listed as ''foreign'' in the Robocall Mitigation Database, it is acting as a gateway provider for that call.

14. The Commission notes that many providers already operate under multiple sets of obligations—for example, as intermediate providers and voice service providers under the Commission's caller ID authentication rules—and no party has indicated why a call-by-call approach for gateway providers would be more burdensome. Moreover, no commenter proposed an alternative approach for imposing unique obligations on gateway providers. (Many commenters assert that the Commission should not impose unique obligations on gateway providers. The Commission addresses that argument in Section I.E.4 *infra*.) The Commission thus concludes that the burden on gateway providers to identify the appropriate regulatory regime applicable to a particular call will be limited.

15. *U.S. NANP Numbers.* Consistent with its proposal, the Commission limits the scope of the requirements for gateway providers to those calls that are carrying a U.S. number in the caller ID field. By a ''U.S. number,'' the Commission means NANP resources that pertain to the United States. The Commission excludes from the scope of its rules those calls that carry a U.S. number in the ANI field but display a foreign number in the caller ID field. Commenters uniformly support this approach, which is consistent with the scope of the prohibition on receiving calls carrying U.S. NANP numbers from foreign voice service providers not listed in the Robocall Mitigation Database. Foreign-originated robocalls are successful to the extent that end users believe they are calls from U.S. customers or businesses, and the Commission therefore concludes it is appropriate to focus its efforts on such calls. (For this reason, the Commission concludes that including ''in the caller ID field'' within its definition and elsewhere in its newly adopted rules will not encourage a deluge of illegal robocalls using non-US numbers as ZipDX argues.)

16. *No Traffic Carve-Outs.* Finally, the Commission declines to exclude certain types of traffic from the consumer protections it adopts. The Commission therefore rejects iBasis's contention that the Commission should exempt from the rules cellular roaming calls sent from U.S. customers abroad. The Commission also declines, at this time, to draw a distinction between ''conversational'' and ''non-conversational traffic'' and to require it to be segregated at the gateway and subject to different levels of regulatory scrutiny. (The Commission notes that it seeks comment on some of these ideas in the accompanying *FNPRM* published elsewhere in this this issue of the **Federal Register**.) The record does not reflect sufficient evidence to justify the utility of these carve-outs, or explain how they could be implemented in an administrable way and in a manner that avoids robocallers gaming whatever call-length definitions the Commission adopts. For example, the Commission is concerned that, if it sets a threshold for conversational traffic at a particular call length, robocallers would find a way to avoid crossing it while continuing to send robocalls. The Commission finds, at this time, that analytics providers, who can and do take call-length patterns into account in determining whether a call is likely to be an illegal robocall, are in the best position to make these sorts of determinations. These entities have the incentive and ability to react quickly to robocallers' shifting tactics and can do so without disclosing to bad actors the specific thresholds on which they rely.

C. Robocall Mitigation Database

17. The Commission adopts its proposal to require gateway providers to submit a certification and mitigation plan to the Robocall Mitigation Database. As explained below, the Commission requires gateway providers to take ''reasonable steps'' to mitigate robocall traffic regardless of whether they have fully implemented STIR/SHAKEN. Gateway providers' robocall mitigation plans must describe their robocall mitigation practices and state that they are adhering to those practices, regardless of whether they have fully implemented STIR/SHAKEN. The Commission also adopts a modified version of its proposal for downstream domestic providers receiving traffic from gateway providers to block traffic from such a provider if the gateway provider has not submitted a certification in the Robocall Mitigation Database or if the gateway provider has been de-listed from the Robocall Mitigation Database pursuant to enforcement action. The vast majority of commenters supported these proposals.

18. *Gateway Provider Robocall Mitigation Database Filing Obligations.* The Commission concludes that requiring gateway providers to submit a certification to the Robocall Mitigation Database describing their robocall mitigation practices and stating that they are adhering to those practices, in conjunction with the new robocall mitigation obligations the Commission adopt elsewhere in this document, is an appropriate extension of similar obligations that currently apply to other providers. The Commission further concludes that requiring gateway provider certification will encourage compliance and facilitate enforcement efforts and industry cooperation. The record reflects significant support for this action. For example, iBasis, a gateway provider, ''believes that it is appropriate to require such a submission'' along with a mitigation plan. While INCOMPAS and T-Mobile argue that gateway providers that have implemented STIR/SHAKEN should not have to submit a mitigation plan, the Commission disagrees because of the importance of gateway providers in the call path and its conclusion that STIR/SHAKEN, on its own, will not eliminate illegal robocalls, particularly traffic originating from outside the United States.

19. These rules the Commission adopts require gateway providers to submit the same information to the Robocall Mitigation Database that voice service providers must submit under existing Commission rules, except for the limited areas described below. Specifically, gateway providers must certify to the status of STIR/SHAKEN implementation and robocall mitigation on their networks; submit contact information for a person responsible for addressing robocall mitigation-related issues; and describe in detail their robocall mitigation practices. Gateway providers may make confidential submissions consistent with the

Commission's existing confidentiality rules. (As USTelecom notes, providers may only redact filings to the extent appropriate under the Commission's confidentiality rules.) Gateway providers must also certify that they will comply with traceback requests within 24 hours, unlike the current ''reasonable period of time'' applicable for voice service providers, or that it has received a waiver of that rule.

20. Consistent with voice service providers' current obligations, the Commission does not require gateway providers to describe their mitigation program in a particular manner, with the exception of clearly explaining how they are complying with the know-your-upstream-provider obligation adopted in this document. The Commission concludes that it and the public will benefit from understanding how each provider chooses to comply with the know-your-upstream provider duty, both because compliance is critical to stopping the illegal carrying or processing of robocalls and because providers may choose to comply with this duty in different ways. (In several legal settlements with gateway providers, the gateway providers were required to comply with extremely detailed, and public, know-your-customer obligations.) As USTelecom argues, ''providers' robocall mitigation programs should reflect at least a basic level of vetting of the providers from whom they directly accept traffic—beyond ensuring that they are registered in the [Robocall Mitigation Database].''

21. The Commission also clarifies that, consistent with existing Commission filing requirements in other contexts, all mitigation plans must be submitted in English or with a certified English translation. To remove any ambiguity, the Commission also codifies that requirement with respect to its STIR/SHAKEN rules. Plans that were not submitted in English or with a certified English translation must be updated no later than 10 business days following the effective date of this document, consistent with the Commission's existing requirement for updating information in the Robocall Mitigation Database.

22. The Commission delegates to the Wireline Competition Bureau the authority to specify the form and format of any submissions, and it directs the Wireline Competition Bureau to comply with any requirements under the Paperwork Reduction Act attendant upon such action. This includes whether gateway providers that are also voice service providers may either submit a separate certification and plan as a gateway provider or amend their current certification and any plan. A gateway provider that is also a voice service provider should explain the mitigation steps it undertakes as a gateway provider and the mitigation steps it undertakes as a voice service provider, to the extent those mitigation steps are different for each role. And as with voice service providers, and consistent with the Commission's proposal, the Commission requires gateway providers to update their certifications within ten business days of ''any change in the information'' submitted, ensuring that the information is kept up to date.

23. The Commission also notes that it may take the same enforcement actions against a gateway provider whose certification is deficient or who fails to meet the standards of its certifications as is the case for voice service providers. This includes, but is not limited to, delisting the gateway provider from the Robocall Mitigation Database. In the *Second Caller ID Authentication Report and Order,* 85 FR 73360 (Nov. 17, 2020), the Commission set forth consequences for providers that file a deficient robocall mitigation plan or that ''knowingly or negligently'' originate illegal robocall campaigns, including removal from the Robocall Mitigation Database. To promote regulatory symmetry and close any loopholes in the Commission's regime, gateway providers will be subject to similar consequences. Specifically, if the Commission find that a certification is deficient, such as if the certification describes an ineffective program, or it determines that a provider knowingly or negligently carries or processes illegal robocalls, it will take appropriate enforcement action. These actions may include, among others, removing a certification from the database after providing notice to the gateway provider and an opportunity to cure the filing, requiring the gateway provider to submit to more specific robocall mitigation requirements, and/or the imposition of a forfeiture. Should the Commission remove a gateway provider from the Robocall Mitigation Database, downstream providers must block that gateway provider's traffic as described below.

24. Gateway providers must submit a certification to the Robocall Mitigation Database by 30 days following publication in the **Federal Register** of notice of approval by OMB of any associated Paperwork Reduction Act (PRA) obligations. (In the *Gateway Provider FNPRM,* the Commission proposed a filing deadline of 30 days after the publication of this document, but that did not account for OMB approval of PRA obligations.) The Commission concludes that the deadline will give providers sufficient time to prepare their submission following notification of OMB approval. If a gateway provider has not fully implemented STIR/SHAKEN by the filing deadline, it must so indicate in its filing. (Below, the Commission requires gateway providers to authenticate unauthenticated SIP traffic pursuant to STIR/SHAKEN by June 30, 2023.) It must then later update the filing within 10 business days of STIR/SHAKEN implementation. (Given the importance of tracking gateway providers' mitigation efforts, the Commission concludes that the benefit of an earlier filing deadline outweighs the burden for some providers to subsequently update their filing with their STIR/SHAKEN compliance status.)

25. The Commission does not at this time adopt a requirement for gateway providers to inform the Commission through an update to the Robocall Mitigation Database filing if the gateway provider is subject to a Commission, law enforcement, or regulatory agency action, investigation, or inquiry due to its robocall mitigation plan being deemed insufficient or problematic, or due to suspected unlawful robocalling or spoofing. Similarly, the Commission does not at this time require all or a subset of Robocall Mitigation Database filers to include additional identifying information. While the Commission concludes that taking these steps may have merit, it finds the record is insufficient to support taking action at this time. Instead, the Commission seeks comment in the accompanying *FNPRM* on imposing these obligations on all domestic providers in the call path.

26. The Commission also does not at this time extend this certification obligation to domestic intermediate providers other than gateway providers or require voice service providers that have already implemented STIR/SHAKEN to meet the ''reasonable steps'' standard and submit a robocall mitigation plan. However, the Commission seeks comment on doing so in the accompanying *FNPRM.*

27. *Gateway Provider Call Blocking.* The Commission also extends the prohibition on accepting traffic from unlisted voice service providers to gateway providers as proposed. This proposal received significant record support and will close a loophole in the Commission's regime. Under this rule, downstream providers will be prohibited from accepting any traffic from a gateway provider not listed in the Robocall Mitigation Database, either because the provider did not file or their

certification was removed from the Robocall Mitigation Database as part of an enforcement action. The Commission concludes that a gateway provider Robocall Mitigation Database filing requirement and an associated prohibition against accepting traffic from gateway providers not in the Robocall Mitigation Database will ensure regulatory symmetry between voice service providers and gateway providers and underscore the key role gateway providers play in stemming foreign-originated illegal robocalls. Consistent with the Commission's proposal, and the parallel requirement adopted for voice service providers in the *Second Caller ID Authentication Report and Order,* this prohibition will go into effect 90 days following the deadline for gateway providers to submit a certification to the Robocall Mitigation Database.

28. As a result of gateway providers' affirmative obligation to submit a certification in the Robocall Mitigation Database, the Commission concludes that downstream providers will no longer be able to rely upon any gateway provider database registration imported from the intermediate provider registry when making blocking determinations. (Previously, all intermediate providers were imported into the Robocall Mitigation Database from the rural call completion database's Intermediate Provider Registry so that all intermediate providers would be represented therein, giving voice service providers ''confidence that any provider not listed in the Robocall Mitigation Database'' was not in compliance with the Commission's rules.) In the *Second Caller ID Authentication Report and Order,* the Commission imported intermediate providers into the Robocall Mitigation Database from the intermediate provider registry to ensure that downstream providers did not inadvertently block traffic sent from the intermediate providers' networks. At that time, no intermediate providers were subject to a Robocall Mitigation Database filing or mitigation requirement. To the extent a gateway provider was imported into the Robocall Mitigation Database via the intermediate provider registry, that Robocall Mitigation Database entry is not sufficient to meet the gateway provider's Robocall Mitigation Database filing obligation or to prevent downstream providers from blocking traffic upon the effective date of the obligation for downstream providers to block traffic from gateway providers. Therefore, gateway providers must submit a certification to the Robocall Mitigation Database by 30 days following **Federal Register** publication of OMB approval of the relevant information collection requirements, and the downstream provider must begin blocking traffic within 90 days of that certification deadline if the gateway provider has not submitted a certification to the Robocall Mitigation Database. The Commission delegates to the Wireline Competition Bureau to make the necessary changes to the Robocall Mitigation Database to indicate whether a gateway provider has made an affirmative filing (as opposed to being imported as an intermediate provider) and whether any provider's filing has been de-listed as part of an enforcement action. The Bureau may, pursuant to an enforcement action, remove the record of a providers' filing or clearly mark it in a way so that downstream providers may not rely on it.

29. For the purpose of the downstream providers' call blocking duty, the Commission does not require the downstream provider to determine if a specific call was sent from a provider acting as a voice service provider or gateway provider for that call. Nevertheless, the Commission recognizes that it may not always be possible for the downstream provider to know whether the upstream provider is (1) a voice service provider or gateway provider whose traffic must be blocked if the provider did not make an affirmative certification in the Robocall Mitigation Database and has not been de-listed; or (2) an intermediate provider that is not a gateway provider, whose traffic should not be blocked. The Commission therefore only requires the downstream provider to block calls if they have a reasonable basis to believe that the upstream provider acts, *for some calls,* as a voice service provider or gateway provider and that the provider did not affirmatively file or in the Robocall Mitigation Database or has been de-listed. The Commission notes it is proposing in the *FNPRM* to expand the obligation to submit an affirmative certification to the Robocall Mitigation Database to all domestic intermediate providers. Adoption of that proposal should eliminate any of these implementation concerns. In that case, the downstream provider would simply check to see if the upstream provider affirmatively filed in the Robocall Mitigation Database and has not been de-listed and would block the call if appropriate. Nevertheless, the Commission concludes it must act now with respect to gateway providers to stem the tide of foreign-originated calls.

30. *Bureau Guidance.* The Commission directs the Wireline Competition Bureau to make the necessary changes to the Robocall Mitigation Database portal and provide appropriate filing instructions and training materials consistent with this document. The Commission also directs the Wireline Competition Bureau to release a public notice upon OMB approval of the information collection requirements for filing a certification, setting the deadlines for filing a certification, and for the downstream provider to block traffic from a gateway provider that has not filed a certification in the database. Either in that same or a separate public notice, the Wireline Competition Bureau shall also state when gateway providers may begin filing certifications in the Robocall Mitigation Database.

31. Commenters disagreed whether intermediate providers' imported data should be deleted from the database. Consistent with the Commission's direction to the Wireline Competition Bureau to make the necessary changes to the portal to effectuate the rules, the Commission directs the Bureau to determine how to manage the imported data of gateway providers and to announce its determination as part of its guidance described in the paragraph above.

32. *Public Safety Calls.* In the *Gateway Provider FNPRM,* the Commission clarified that: (1) even if a provider is not listed in the Robocall Mitigation Database, other voice service providers and intermediate providers in the call path must make all reasonable efforts to avoid blocking calls from public safety answering points (PSAPs) and Government outbound emergency numbers; and (2) emergency calls to 911 from originating providers not in the Robocall Mitigation database must not be blocked ''under any circumstances.'' (These clarifications reflect the Commission's existing requirements.) The Commission now codifies these requirements and applies them as well to the new blocking obligations it adopts in this document. Codifying these clarifications with respect to providers not listed in the Robocall Mitigation Database are consistent with the Commission's action to similarly codify these safeguards in its other blocking rules and will ensure completion of emergency calls is subject to the same safeguards regardless of the rule under which the call would otherwise be blocked. There was record support for this approach. The Commission disagrees with ZipDX that its clarification in the *Gateway Provider FNPRM* and its expansion to gateway providers would not be administratively feasible. Providers have had to comply

with the Commission's public safety exception to blocking for other purposes for several years, and ZipDX does not adequately explain why applying this exception to traffic sent from providers not in the Robocall Mitigation Database now would be different. Additionally, in balancing any implementation concerns against the critical importance of completing emergency calls, the Commission concludes that adopting and expanding the public safety exception is in the public interest.

33. The Commission also sought comment in the *Gateway Provider FNPRM* on whether it should expand these clarifications, including whether it should further define what constitutes ''reasonable efforts'' to prevent blocking of emergency calls. In light of the limited comments in the record and the uncertain benefits to be gained, the Commission does not take any further action at this time.

D. Authentication

34. To combat foreign-originated robocalls, and to further the long-standing Commission goal and benefits of ubiquitous STIR/SHAKEN authentication, the Commission requires gateway providers, consistent with its proposal, to implement STIR/SHAKEN to authenticate SIP calls that are carrying a U.S. number in the caller ID field. The Commission concludes based on the record that authentication, as well as the additional data sent to downstream providers along with the authentication, will reduce the incentive and ability of foreign providers to send illegal robocalls into the U.S. market, as well as provide downstream intermediate and terminating providers and their call analytics partners with additional data to protect their customers, and therefore will provide a significant benefit. Attestation information will facilitate analytics and promote traceback and enforcement efforts. Speeding traceback efforts is also consistent with the underlying goal of the Commission's 24-hour traceback requirement. The Commission finds those benefits outweigh the implementation costs. Additionally, certain commenters support requiring gateway providers to authenticate calls.

35. As the Commission has previously explained, application of caller ID authentication by intermediate—including gateway—providers ''will provide significant benefits in facilitating analytics, blocking, and traceback by offering all parties in the call ecosystem more information.'' At the time the Commission reached this conclusion, given the concerns that an authentication requirement on all intermediate providers ''was unduly burdensome in some cases,'' the Commission determined that intermediate providers could, instead of authenticating unauthenticated calls, ''register and participate with the industry traceback consortium as an alternative means of complying with our rules.'' Since that time, the Commission imposed on all domestic providers the requirement to respond to all traceback requests from the Commission, law enforcement, or the industry traceback consortium, fully and in a timely manner. Because evidence shows that foreign-originated robocalls are a significant and increasing problem and that the benefits of a gateway authentication requirement outweigh the burdens, the Commission thus adopts a gateway provider authentication obligation to address this problem. The Commission believes gateway provider authentication will address a significant risk to American consumers and enhance their trust in this country's telecommunications network.

36. *Requirement.* To comply with the requirement to authenticate calls, consistent with the Commission's proposal, a gateway provider must authenticate caller ID information for all SIP calls it receives for which the caller ID information has not been authenticated and which it will exchange with another provider as a SIP call. (As noted, the call blocking rules have mooted this choice—all domestic providers now must cooperate with traceback efforts.) A gateway provider can satisfy its authentication requirement if it adheres to the three Alliance for Telecommunications Industry Solutions (ATIS) standards that are the foundation of STIR/SHAKEN—ATIS–1000074, ATIS–1000080, and ATIS–1000084—and all documents referenced therein. Compliance with the most current versions of these standards as of the compliance deadline, including any errata to the standards as of that date or earlier, represents the minimum requirement to satisfy the Commission's rules. (No commenters addressed this proposal.) ATIS and the SIP Forum conceptualized ATIS–1000074 as ''provid[ing] a baseline that can evolve over time, incorporating more comprehensive functionality and a broader scope in a backward compatible and forward looking manner.'' The Commission intends for its rules to provide this same room for innovation, while maintaining an effective caller ID authentication ecosystem. Gateway providers may incorporate any improvements to these standards or additional standards into their respective STIR/SHAKEN authentication frameworks, so long as any changes or additions maintain the baseline call authentication functionality exemplified by ATIS–1000074, ATIS–1000080, and ATIS–1000084.

37. In addition, in line with the rule applicable to intermediate providers generally and the Commission's proposal, gateway providers have the flexibility in implementing call authentication to assign the level of attestation appropriate to the call based on the call information available to the gateway provider. Gateway providers are not limited to assigning ''gateway'' (C-level) attestation, and one commenter notes that there are significant benefits to be gained from gateway providers appropriately applying higher attestation levels consistent with the standard. Stakeholders support this approach.

38. *Benefits Outweigh Burdens.* The Commission concludes that the benefits of a gateway provider authentication obligation outweigh the burdens. Record evidence demonstrates that the benefits of gateway provider authentication are significant and are likely to grow over time as more providers are brought within the STIR/SHAKEN regime. Illegal robocalls cost Americans billions of dollars each year. Even minimal deterrence arising from authenticating unauthenticated foreign-originated calls is likely to be highly beneficial. To the extent ''gateway providers already exchange traffic in SIP and therefore likely are ready to implement STIR/SHAKEN,'' the requirement will have a real, near-term benefit.

39. Those commenters asserting such a requirement will cost significant time and resources to implement do not provide detailed support for their claims. Indeed, to the extent a gateway provider also serves as a voice service provider, it will have already implemented STIR/SHAKEN in at least some portion of its network, likely lowering its compliance costs to meet the requirement the Commission adopts. Given the real and significant benefits to providers and American consumers in the form of billions in savings and increased trust in the voice network that will flow from the reduction in foreign-originated illegal robocalls, the Commission concludes that requiring authentication is in the public interest even if it credits those arguing that there are substantial implementation costs.

40. While gateway providers are likely to authenticate most calls with only C-level attestation at least initially, the

Commission disagrees with those commenters who argue that the benefits of lower attestation levels, along with other information sent along with the attestation, are not worth the asserted cost. While ''C-level attestation is not as good as higher-level attestation . . . it is far more valuable, particularly in the case of foreign-originated illegal robocalls, than NO signature.'' Terminating providers and their end users directly benefit from gateway provider authentication. As T-Mobile notes, ''[r]eceiving *any* level of attestation can help carriers trace where unwanted or illegal calls enter the country so they can follow up and prevent additional traffic from the offending source. The information passed along with the attestation can be valuable for analytics engines, enabling calls to be appropriately labeled or sent to voice mail'' before reaching end users. Indeed, the North American Numbering Council (NANC) recently recognized the value of this information. Even if not all analytics providers currently use this information, more could readily do so in the future. And, while the Commission agrees with commenters that gateway provider authentication is not a ''silver bullet,'' it ''will have a significant impact on curtailing illegal robocalls which is critical to restoring trust in the voice network.'' It also will make the traceback process more efficient and rapid, consistent with the underlying goal of the Commission's newly adopted 24-hour traceback requirement. Even if foreign-originated calls carrying U.S. numbers constitute a small portion of gateway providers' overall traffic, such traffic represents a disproportionate share of illegal robocall traffic received by such providers, underscoring the importance of authentication. The Commission agrees with USTelecom that the Commission's authentication regime would be harmed if gateway providers improperly sign calls with A-level attestations, but that is not a problem unique to gateway provider authentication—all domestic providers authenticating calls are obligated to provide the appropriate attestation level. Similarly, the Commission disagrees with Verizon that because some gateway providers still have some time division multiplex (TDM) facilities, which fall ''out of the scope'' of the attestation mandate, the Commission should not require gateway providers to authenticate SIP calls. The Commission continuously has required voice service providers to implement authentication on the IP portions of their networks, as it does for gateway providers here, despite the presence of TDM facilities on their networks subject to a continuing extension.

41. Expanding the scope of providers subject to the STIR/SHAKEN regime will increase the overall benefits of the standard and its future reach. As many parties and the NANC note, STIR/SHAKEN has beneficial network effects, and the more steps the Commission takes to increase its use, the greater the overall benefit for those providers that have already implemented the standard and those providers' customers. (For the same reasons, the Commission does not adopt USTelecom's alternative proposal to only impose a gateway provider authentication obligation on smaller, non-facilities-based providers.) Indeed, the Commission's expansion of the STIR/SHAKEN regime may spur other countries and regulators to also develop and adopt STIR/SHAKEN, further increasing the standards' benefit. (While the i3forum opposes an attestation obligation, it notes that cross-border adoption of STIR/SHAKEN and voluntary agreements can lead to ''situations in which [the gateway provider] has access to information that would enable it to provide an A-level or B-level attestation.'') In the interim, gateway provider authentication is the only way to ensure that all foreign-originated calls with U.S. numbers in the caller ID field are authenticated. The Commission acknowledges that at least some of the benefits that will flow from gateway provider authentication are based on its reasoned predictions arising from disputed record evidence. Nevertheless, in adopting its rule, the Commission is persuaded by the available evidence that the benefits will be significant, and the sooner the Commission acts, the sooner the public will obtain these benefits. For these reasons, the Commission disagrees with CTIA-The Wireless Association that it would be ''premature'' for the Commission to require gateway authentication while foreign regulators consider mandating STIR/SHAKEN or that the Commission should wait for the recommendations of outside third parties, or possible future rule changes, before acting.

42. *Compliance Deadline.* The Commission requires that gateway providers authenticate unauthenticated foreign-originated SIP calls carrying U.S. NANP numbers by June 30, 2023, a longer period than the Commission proposed in the *Gateway Provider FNPRM*. One commenter supported a December 2023 deadline, while others supported either a longer or shorter deadline. The Commission conclude that this deadline appropriately balances the relevant burdens and benefits of implementation; it will give gateway providers less time than the 18 months voice service providers had to implement STIR/SHAKEN, but more time than the shorter deadline of the effective date of the order proposed by the 51 State attorneys general. This deadline also coincides with the extension for STIR/SHAKEN implementation for facilities-based small voice service providers.

43. The Commission also believes that a June 30, 2023, deadline is reasonable because the industry has much more experience with implementation than when the Commission originally required voice service providers to implement STIR/SHAKEN, there is evidence that STIR/SHAKEN implementation costs have dropped since it first adopted the requirement for voice service providers and because the authentication requirement applies only to the IP portions of the gateway providers' networks. Finally, to facilitate uniformity, simplify compliance, and consistent with comments in the record, the Commission does not adopt an earlier deadline for those providers that have, in their role as voice service providers, already implemented STIR/SHAKEN, nor do it adopt a longer deadline for certain providers or classes of provider, or a specific process for the grant of extensions or exemptions from this requirement, with the exception of two extensions regarding token access and non-IP networks described below. (Parties are, of course, free to file a request for waiver. The Commission may grant such requests where the particular facts at issue make strict compliance with the rule at issue inconsistent with the public interest. In considering whether to grant a waiver, the Commission may take into account factors such as hardship, equity, or more effective implementation of overall policy. This extension will be similar to the one already in place for voice service providers.) As noted above, once a gateway provider has fully implemented STIR/SHAKEN, it must update its filing in the Robocall Mitigation Database.

44. *Token Access.* The Commission sought comment on whether the Secure Telephone Identity Governance Authority's (STI–GA) token access policy serves as a barrier for all or a subset of gateway providers from obtaining a token and, if so, what if any actions it should take to address that barrier, but it received limited response. (USTelecom and iconnectiv assert that the policy should not be changed. iBasis argues that the operating company

number (OCN) criteria should be eliminated.) The Commission concludes that the current token access policy will likely not present a material barrier to gateway providers meeting their authentication obligation, and it anticipates that the STI–GA can address any concerns before gateway providers are required to authenticate calls by June 30, 2023. Nevertheless, to ensure that gateway providers are not unfairly penalized, the Commission provides a STIR/SHAKEN extension to gateway providers that are unable to obtain a token due to the STI–GA token access policy. The extension will run until the gateway provider is able to obtain a token as long as the gateway provider ''diligently pursues'' doing so.

45. *Non-IP Networks and Authentication.* The Commission concludes that gateway providers should have the same duty as voice service providers to either upgrade their non-IP networks to IP and implement STIR/SHAKEN or work with a working group, standards group, or consortium to develop a non-IP caller ID authentication solution. Such an obligation is appropriate in light of gateway providers' key role in serving as the entry point for foreign-originated voice traffic into the U.S. marketplace and the limited burden gateway providers would experience in working with a standards group. No party commented on this issue, and this approach is consistent with those commenters arguing that all domestic providers in the call path should have similar obligations. As with voice service providers, gateway providers that choose to work with a working group are subject to an extension to implement STIR/SHAKEN in the non-IP portions of their networks.

46. The Commission asked in the *Gateway Provider FNPRM* whether it should require gateway providers to adopt a non-IP caller ID authentication solution, an obligation that voice service providers currently do not have. A number of commenters filed specific proposals in the record for authentication on IP and non-IP networks for gateway providers as well as voice service providers. The Commission does not adopt these proposals, in part because many are outside of the scope of the *Gateway Provider FNPRM.* However, the Commission seeks comment on some of these alternatives in the accompanying *FNPRM,* as well as their applicability to all domestic providers in the call path, and do not foreclose the possibility of seeking comment on the remainder of these proposals in a future proposal.

E. Robocall Mitigation

47. The Commission adopts several of its robocall mitigation proposals from the *Gateway Provider FNPRM.* First, the Commission adopts its proposal to require gateway providers to respond to traceback requests within 24 hours, with one modification. Second, it requires gateway providers and the providers immediately downstream from the gateway provider to comply with blocking mandates in certain instances. Third, it requires gateway providers to ''know'' the provider immediately upstream from the gateway provider. Finally, the Commission adopts a general mitigation standard.

1. 24-Hour Traceback Requirement

48. The Commission adopts its proposal to require gateway providers to fully respond to traceback requests from the Commission, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of such a request. (To be clear, the 24-hour clock does not start outside of the business hours of the local time for the responding office. Requests received outside of business hours as defined in the Commission's rules are deemed received at 8 a.m. on the next business day. Similarly, if the 24-hour response period would end on a non-business day, either a weekend or a Federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. ''Business day'' for these purposes is Monday through Friday, excluding Federal legal holidays, and ''business hours'' are 8 a.m. to 5:30 p.m. on a business day, consistent with the definition of office hours in the Commission's rules. By way of example, a request received at 3 p.m. on a Friday will be due at 3 p.m. on the following Monday, assuming that Monday is not a Federal legal holiday. The Commission believes that this clarification resolves concerns raised by some parties about the burden of a strict 24-hour requirement.) This is an enhancement of the Commission's existing rule, which requires all domestic providers, including gateway providers, to respond to traceback requests ''fully and in a timely manner.'' The Commission takes this step recognizing the critical role that gateway providers play in stopping the deluge of illegal foreign-originated robocalls, which continue to increase despite its previous efforts to stem the tide.

49. The Commission finds that a mandatory 24-hour response requirement best serves to protect consumers from foreign-originated illegal robocalls, which are a prevalent source of illegal robocalls aimed at U.S. consumers. As the Commission has repeatedly made clear, traceback is an essential part of both identifying and stopping illegal calls, and rapid traceback is key to its success. The process used by the Industry Traceback Group, which is the currently designated industry traceback consortium, is semi-automated, allowing the process to continue very quickly when a provider responds to a traceback request. While time is always of the essence in traceback, time is particularly important in the case of foreign-originated calls. In such cases, reaching the origination point of the call may require working with foreign providers and foreign governments, which could significantly increase the total time for the traceback process. As the 51 State AGs have argued, time is of the essence for traceback of foreign-originated calls because law enforcement may need to work with international regulators to obtain information from providers outside of U.S. jurisdiction. As a result, any unnecessary delay increases the risk that this essential information may become impossible to obtain.

50. The Commission therefore disagrees with commenters that do not support its enhanced 24-hour requirement. First, the Commission disagrees with commenters that argue that a stricter requirement is not warranted here. The Commission acknowledges the work industry has done on improving the traceback process, and recognizes that many, if not most, providers that receive traceback requests already respond in under 24 hours. However, the Commission finds that it is important to act aggressively in the international calling context. The gateway provider's response to a traceback request is often the first step in a process where the entity conducting the traceback must work with multiple foreign providers to trace a call back to the originating foreign provider and caller. The longer this process takes, the higher the risk that a foreign provider will no longer have the information necessary to respond—if they are even willing to do so—or that other factors will change, reducing the ability to fully trace the call. Therefore, this process must both begin and be completed as soon as possible. Many, if not most, providers that receive traceback requests are already responding within 24 hours, and the Commission believes this

enhanced obligation presents no additional burden. For providers that do not already meet this standard, the additional burden is justified by the need to quickly obtain this information. The record does not support the contention that this requirement presents a significant burden for providers. (Some commenters did raise specific concerns about this requirement. However, as discussed further below, these comments appear to either misunderstand the current expectations or to misunderstand the scope of the requirement.) The Commission emphasizes again, as it stated in the *Fourth Call Blocking Order,* 86 FR 17726 (April 6, 2021), that it generally expects *all* domestic providers to respond to traceback within 24 hours in most instances. The rule the Commission adopts simply makes that expectation a requirement in the gateway context. (While the Commission requires response to all traceback requests within 24 hours, it retains its right to exercise discretion in enforcement or consider limited waivers where a provider that normally responds within the 24-hour time frame has an truly unexpected or unpredictable issue that leads to a delayed response in a particular case or for a short period of time.)

51. The Commission also disagrees with commenters who argue that 24 hours is too short a time frame. (One commenter incorrectly indicated that the ''current deadline'' is 36 hours, without indicating the source of that figure.) The Commission notes that, in the *Fourth Call Blocking Order,* it made clear that, in most cases, it expects responses within 24 hours under its existing rule. Further, according to a report by the Industry Traceback Group, the average time to complete a single hop in the traceback process is less than one day, with many providers responding in less than 30 minutes. (While the Industry Traceback Group notes that overall response time is reduced by certain providers responding more quickly, it also notes that ''[t]racebacks that end with non-responsive providers tend to have slower response times, even in completed hops before the non-responsive provider'' and that providers closer to the origination point tend to respond more slowly. Speeding up these responses can only benefit the traceback process.) Many, if not most, providers that receive traceback requests already respond in under 24 hours. The Commission therefore sees no reason to believe that the rule it adopts would unduly burden any gateway providers, nor would the burden of such a requirement outweigh the significant benefits to law enforcement from such a requirement. (Gateway providers for which this requirement poses a unique and significant burden may apply for a waiver of this rule under the ''good cause'' standard of § 1.3 of the Commission's rules. Under that standard, for example, waivers may be available in the event of sudden unforeseen circumstances that prevent compliance for a limited period or for a limited number of calls. The Commission notes that any applicant for waiver ''faces a high hurdle even at the starting gate'' and would need to ''plead with particularity'' the ''special circumstances'' that warrant a waiver and explain how granting a waiver would serve the public interest.)

52. The Commission makes clear that it does not require the gateway provider to identify the caller or originating provider within this 24-hour response period except in the case where the originating provider is the provider from which the gateway provider received the call. Some commenters appear concerned that this rule would require them to trace a call back to the point of origination, or, at least, through several hops. One commenter points to the ''need to obtain information from several other carriers located in foreign countries,'' while another mentions the need for ''detailed investigations.'' The Commission requires the gateway provider to respond with information only about the provider from which it directly received the call. (An appropriate response would include the identity of the upstream provider, as well as, for example, the country, a complete address, contact information for the provider, and a link to that provider's Robocall Mitigation Database filing.)

53. The Commission also encourages gateway providers to determine whether their relationship with upstream providers should change to better facilitate traceback. (For example, a gateway provider may conduct such an investigation as part of compliance with the ''know your upstream provider'' obligation discussed below, which does not have a 24-hour requirement.) The Commission sees no reason that a gateway provider should not be able to identify the immediate upstream provider from its records and respond to the traceback request without further investigation. In fact, one commenter indicated that it currently automates response to traceback.

54. *Compliance Deadline.* The Commission requires gateway providers to comply with this requirement no later than 30 days after publication of notice of OMB approval under the PRA. This allows gateway providers sufficient time to update their processes and come into compliance with the rule.

2. Mandatory Blocking

55. The Commission adopts some, but not all, of the mandatory blocking proposals it sought comment on in the *Gateway Provider FNPRM.* First, the Commission requires gateway providers to block, rather than simply effectively mitigate, illegal traffic when notified of such traffic by the Commission, and it requires providers immediately downstream from the gateway provider to block all traffic from an identified gateway provider that has failed to meet its blocking obligation upon Commission notification. Second, it requires gateway providers to block calls based on any reasonable DNO list. Third, it declines at this time to require gateway providers to block calls based on reasonable analytics. Finally, the Commission addresses related issues including requests for a safe harbor, as well as transparency and redress.

56. The Commission find that the mandatory blocking requirements it adopts, along with the appropriate procedural safeguards described herein, strike an appropriate balance between the benefit of blocking calls likely to be illegal with the risk of blocking lawful calls. The Commission acknowledges that this represents a shift, at least in part, from the Commission's previous approach of permitting, rather than mandating, blocking. The Commission agrees that ''[b]locking calls is a serious and complicated action that must be precisely and judiciously applied to avoid blocking lawful traffic.'' However, the Commission disagrees with commenters that argue mandatory blocking requirements are generally inappropriate. The Commission's existing permissive blocking rules are still in effect; it encourages providers to make use of permissive blocking, where available, to protect American consumers from unwanted and illegal calls. The rules the Commission adopts narrowly target the most obvious foreign-originated illegal calls, including those calls that have already been determined to be illegal, and enlist gateway providers into the fight to block these calls before they enter the U.S. telephone network.

a. Blocking Following Commission Notification

57. The Commission adopts two of its proposals from the *Gateway Provider FNPRM.* First, the Commission requires gateway providers to block, rather than

effectively mitigate, illegal traffic when notified of such traffic by the Commission. Second, it requires providers immediately downstream from a gateway provider to block all traffic from the identified provider when notified by the Commission that the gateway provider failed meet its obligation to block illegal traffic. To ensure that gateway providers are afforded sufficient due process prior to downstream providers blocking all traffic from them, the Commission adopts a clear process that allows ample time for the notified gateway provider to remedy the problem and demonstrate that it can be a good actor in the calling ecosystem before the Commission directs downstream providers to begin blocking. This process, laid out in greater detail below, includes the following steps: (1) the Enforcement Bureau shall provide the gateway provider with an initial Notification of Suspected Illegal Traffic; (2) the gateway provider shall be granted time to investigate and act upon that notice; (3) if the gateway provider fails to respond or its response is deemed insufficient, the Enforcement Bureau shall issue an Initial Determination Order, providing a final opportunity for the gateway provider to respond and; (4) if the gateway provider fails to respond or that response is deemed insufficient, the Enforcement Bureau shall issue a Final Determination Order, directing downstream providers to block all traffic from the identified provider.

58. *Gateway Provider Blocking Following Commission Notification of Suspected Illegal Traffic.* The Commission first adopts its proposal to require gateway providers to block, rather than simply effectively mitigate, illegal traffic when notified of such traffic by the Commission. In order to comply with this requirement, gateway providers must block traffic that is substantially similar to the identified traffic on an ongoing basis. As with the existing requirement for providers to take steps to effectively mitigate illegal traffic when notified, the Commission directs the Commission's Enforcement Bureau to identify suspected illegal calls and provide written notice to gateway providers that clearly indicates that the provider must comply with 47 CFR 64.1200(n)(5).

59. The Commission agrees with commenters that this blocking will help protect American consumers by ensuring less illegal traffic reaches their phones. An affirmative obligation for gateway providers to block upon Commission notification ensures greater protection than an ''effective mitigation'' requirement. This is particularly true because gateway providers, by definition, are intermediate providers and are thus a step removed from the caller, limiting their available effective mitigation options.

60. The Commission therefore disagrees with commenters that urge it to rely on the existing requirement to effectively mitigate this traffic rather than to adopt this enhanced requirement. The Commission also disagrees with providers that a separate set of obligations when acting as a gateway provider complicates or increases the burden of compliance because providers cannot easily determine if they are acting as a gateway provider for a particular call. Here, per the process described below, the Enforcement Bureau makes the initial determination of whether the provider is acting as a gateway provider. (A provider determines whether it is a ''gateway provider'' on a call-by-call basis. A provider may be a gateway provider for some of the calls in the identified traffic and a non-gateway originating provider, non-gateway intermediate provider, or non-gateway terminating provider for other calls in the identified traffic. If the provider is the gateway provider for any of the calls in the traffic identified in the Notification of Suspected Illegal Traffic, the provider must block all traffic that is substantially similar to the identified traffic, regardless of whether the provider is a gateway provider for any particular call.) If the gateway provider is not directed to comply with 47 CFR 64.1200(n)(5), but rather with 47 CFR 64.1200(n)(2), then that provider will not be in violation of the Commission's rules for effectively mitigating, rather than blocking, illegal traffic, regardless of its position in the call path for a particular call.

61. *Downstream Provider Blocking When Gateway Provider Fails to Comply with Blocking Requirement.* The Commission adopts its proposal requiring providers immediately downstream from a gateway provider to block all traffic from the identified provider when notified by the Commission that the gateway provider failed to block. If the Enforcement Bureau determines a gateway provider fails to satisfy 47 CFR 64.1200(n)(5), it shall publish and release an Initial Determination Order as described below giving the provider a final opportunity to respond to the Enforcement Bureau's initial determination. If the Enforcement Bureau determines that the identified gateway provider continues to violate its obligations, the Enforcement Bureau shall release and publish a Final Determination Order in EB Docket No. 22–174 to direct downstream providers to both block and cease accepting all traffic they receive directly from the identified gateway provider starting 30 days from the release date of the Final Determination Order. (Ignorance of a Final Determination Order's release is not sufficient reason for a downstream provider to fail to block all traffic from the gateway provider unless such Order is not posted in EB 22–174.)

62. The Commission agrees with several commenters that support this requirement and disagree with the lone commenter that objects to this mandate. The Commission finds that this requirement is an appropriate and proportional response where a gateway provider actively and willfully refuses to be a good actor in the calling ecosystem. Blocking all traffic from a particular provider is a dramatic step that will likely also block some lawful traffic but is justified by the need to protect consumers from foreign-originated illegal robocalls. Lawful traffic can then be routed through other gateway providers that comply with the Commission's rules.

63. *Process for Issuing a Notification of Suspected Illegal Traffic.* The Enforcement Bureau shall make an initial determination that the provider is a gateway provider for suspected illegal traffic and notify the provider by issuing a written Notification of Suspected Illegal Traffic. The Notification of Suspected Illegal Traffic shall: (1) identify with as much particularity as possible the suspected illegal traffic; (2) provide the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful (the notice should include any relevant nonconfidential evidence from credible sources such as the industry traceback consortium or law enforcement agencies); (3) cite the statutory or regulatory provisions the suspected illegal traffic appears to violate; and (4) direct the provider receiving the notice that it must comply with § 64.1200(n)(5) of the Commission's rules.

64. The Enforcement Bureau's Notification of Suspected Illegal Traffic shall specify a timeframe of no fewer than 14 days for an identified gateway provider to complete its investigation and report its results. Upon receiving such notice, the gateway provider must promptly investigate the traffic identified in the notice and begin blocking the identified traffic within the timeframe specified in the Notification of Suspected Illegal Traffic unless its investigation determines that the traffic is legal.

65. The Commission makes clear that the requirement to block on an ongoing basis is not tied to the number in the caller ID field or any other single criterion. Instead, the Commission requires the identified provider to block on a continuing basis any traffic that is substantially similar to the identified traffic and provide the Enforcement Bureau with a plan as to how it expects to do so. The Commission does not define ''substantially similar traffic'' in any detail here because that will be a case-specific determination based on the traffic at issue. The Commission declines to limit the scope of ''substantially similar traffic'' to only ''traffic sent by the upstream entity that was responsible for sending the illegal robocall traffic that triggered the Commission's notification.'' While gateway providers may propose such a limitation in the blocking plan they submit to the Enforcement Bureau, the Commission does not find that such a limitation is appropriate in all instances. In particular, such a limitation could make it easy for a bad actor to circumvent blocking by simply routing their traffic through multiple upstream providers. The Commission is also concerned that a detailed definition could allow bad actors to circumvent this blocking by providing a roadmap as to how to avoid detection. Additionally, the Commission notes that each calling campaign will have unique qualities that are better addressed on a case-by-case basis, where the analytics used can be tailored to the particular campaign at issue. The Commission nevertheless encourages gateway providers to consider common indicia of illegal calls such as call duration; call completion ratios; large bursts of calls in a short time frame; neighbor spoofing patterns; and sequential dialing patterns. The Commission makes clear that these are not the only criteria that the gateway provider may consider in developing its plan, and that not all criteria may be relevant in all situations. Gateway providers will have flexibility to determine the correct approach for each particular case, but a gateway provider must provide a detailed plan in its response to the Enforcement Bureau so that the Bureau can assess the plan's sufficiency. If the Enforcement Bureau determines that the plan is insufficient, it shall provide the gateway provider an opportunity to remedy the deficiencies prior to taking further action. The Commission will consider the identified provider to be in compliance with its mandatory blocking rule if it blocks traffic in accordance with its approved plan. However, the Commission makes clear that the Enforcement Bureau may require the identified provider to modify its approved plan if it determines that the identified provider is not blocking substantially similar traffic. Additionally, if the Enforcement Bureau finds, based on the evidence, that the identified provider continues to allow suspected illegal traffic onto the U.S. network, it may proceed to an Initial Determination Order or Final Determination Order, as appropriate. Finally, the Commission adopts a limited safe harbor from liability under the Communications Act or its rules for gateway providers that inadvertently block lawful traffic as part of the requirement to block substantially similar traffic in accordance with the gateway provider's approved plan. While the Commission agrees that a safe harbor for inadvertent over-blocking is warranted, it declines to provide a safe harbor for under-blocking within this rule. A gateway provider that is under-blocking and not fully cooperating with the Enforcement Bureau to address the issue should not be granted protection from liability under the very rule with which it fails to comply.

66. *Gateway Provider Investigation.* Each notified provider must investigate the identified traffic and report the results of its investigation to the Enforcement Bureau in the timeframe specified in the Notification of Suspected Illegal Traffic. If the provider's investigation determines that it served as the gateway provider for the identified traffic, it must block the identified traffic within the timeframe specified in the Notification of Suspected Illegal Traffic (unless its investigation determines that the traffic is not illegal) and include in its report to the Enforcement Bureau: (1) a certification that it is blocking the identified traffic and will continue to do so; and (2) a description of its plan to identify and block substantially similar traffic on an ongoing basis. If the provider's investigation determines that the identified traffic is not illegal, it shall provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion. Absent such a showing, or the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the identified traffic will be deemed illegal. If a provider's investigation determines it did not serve as a gateway provider for any of the identified traffic, its report shall provide an explanation as to how it reached that conclusion and, if it is a non-gateway intermediate or terminating provider for the identified traffic, the provider must identify the upstream provider(s) from which it received the identified traffic and, if possible, take lawful steps to mitigate this traffic. (Such steps could include, for example, enforcing contract terms, or blocking the calls from bad actor providers consistent with the safe harbor found in 47 CFR 64.1200(k)(4).) If the notified provider determines that it is the originating provider for the identified traffic, or the traffic otherwise comes from a source that does not have direct access to the U.S. public switched telephone network, the notified provider must comply with 47 CFR 64.1200(n)(2) by effectively mitigating the identified traffic and report to the Enforcement Bureau any steps the provider has taken to effectively mitigate the identified traffic. If the gateway provider determines that the traffic is not illegal, it must inform the Enforcement Bureau and explain its conclusion within the specified timeframe.

67. *Process for Issuing an Initial Determination Order.* If the gateway provider fails to respond to the notice within the specified timeframe, the Enforcement Bureau determines that the response is insufficient, the Enforcement Bureau determines that the gateway provider is continuing to allow substantially similar traffic onto the U.S. network, or the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the Enforcement Bureau shall issue an Initial Determination Order to the gateway provider stating its determination that the gateway provider is not in compliance with 47 CFR 64.1200(n)(5). This Initial Determination Order must include the Enforcement Bureau's reasoning for its determination and give the gateway provider a minimum of 14 days to provide a final response prior to the Enforcement Bureau's final determination as to whether the gateway provider is in compliance with 47 CFR 64.1200(n)(5).

68. *Process for Issuing a Final Determination Order.* If the gateway provider does not provide an adequate response to the Initial Determination Order or continues to allow substantially similar traffic onto the U.S. network, or the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the Enforcement Bureau shall issue a Final Determination Order. The Enforcement Bureau shall publish the Final Determination Order in EB Docket No. 22–174 to direct downstream providers

to both block and cease accepting all traffic they receive directly from the identified gateway provider starting 14 days from the release date of the Final Determination Order. This Final Determination Order may be adopted up to one year after the release date of the Initial Determination Order and may be based on either an immediate failure to comply with 47 CFR 64.1200(n)(5) or a determination that the gateway provider has failed to meet its ongoing obligation to block substantially similar traffic under that rule.

69. Each Final Determination Order shall state the grounds for the Bureau's determination that the gateway provider has failed to comply with its obligation to block illegal traffic and direct downstream providers to initiate blocking 14 days from the release date of the Final Determination Order. A provider that chooses to initiate blocking sooner than 14 days from the release date may do so consistent with the Commission's existing safe harbor in 47 CFR 64.1200(k)(4).

b. Do-Not-Originate

70. The Commission further requires gateway providers to block calls based on a reasonable DNO list. A ''DNO list'' is a list of numbers that should never be used to originate calls, and therefore any calls that include a listed number in the caller ID field can be blocked. The Commission declines to mandate the use of a specific list, but allow gateway providers to use any DNO list so long as the list is reasonable. The Commission declines to mandate the use of a specific list, but gateway providers must use at least one DNO list, so long as the list is reasonable. Such a list may include only invalid, unallocated, and unused numbers, as well as numbers for which the subscriber to the number has requested blocking.

71. Reasonable DNO lists may include only the listed categories of numbers described in the preceding paragraph, but the Commission does not require that such DNO lists include all possible covered numbers in order to be reasonable. In particular, the Commission recognizes that unused numbers may be difficult to identify, and that a reasonable list may err on the side of caution. The Commission makes clear, however, that a list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable.

72. In the *2017 Call Blocking Order,* 82 FR 44118 (Sept. 21, 2017), the Commission specifically found that, where the subscriber to the originating number requests blocking, calls purporting to be from that number are ''highly likely to be illegal and to violate the Commission's anti-spoofing rule, with the potential to cause harm defraud, or wrongfully obtain something of value.'' Spoofing of this sort is particularly damaging as it can be used to foster consumer trust and bolster imposter scams. Therefore, the Commission finds that a reasonable list would need to include, at a minimum, any inbound-only government numbers where the government entity has requested the number be included. It must additionally include private inbound-only numbers that have been used in imposter scams, when a request is made by the private entity assigned such a number. (The current list maintained by the Industry Traceback Group is reasonable. The Commission declines, however, to deem that list ''presumptively reasonable'' as NCTA-The internet & Television Association suggests. While the Commission agrees that the list, as it currently stands ''would advance the Commission's goal of reducing harmful spoofing and imposter scams,'' it is concerned that deeming it ''presumptively reasonable'' does not account for the fact that the list is not under Commission control and could be modified, or no longer updated, at any time without Commission input.) In either scenario, the provider or the third party that manages the DNO list may impose reasonable requirements on including the numbers, such as requiring that the number is currently being spoofed at a substantial volume. (Multiple parties requested this or a similar clarification, to address concerns that some switches may have limits on the total amount of numbers that can be blocked.) Gateway providers, or those managing such a list on behalf of gateway providers, should ensure that entities can reasonably request inclusion on the list.

73. The Commission agrees with commenters that support a DNO mandate. The Commission further agrees with one commenter that urged the Commission to look to existing DNO lists for this purpose. While the Commission do not endorse a specific list, it encourages industry to either make use of existing tools or develop new ones to serve this purpose. Gateway providers may choose the list that works best for their networks so long as that list is reasonable. Because the Commission finds that a single, centralized list is not the correct approach, it declines to develop a ''high availability application or online tool'' as one commenter suggests. The Commission is concerned that a centralized list could present security concerns and allow bad actors to circumvent blocking by providing a clear list of numbers to avoid spoofing. (In some instances, there is still value in a DNO list even when bad actors know what numbers are included. For example, consumer trust may increase when the caller cannot spoof a known number associated with the caller the bad actor is attempting to impersonate. A non-public list, at a minimum, slows bad actors in their efforts to switch numbers and prevents some calls from reaching consumers.)

74. The Commission disagrees with the commenter that argued the mandate is unnecessary because many providers already use a DNO list to block calls. The Commission recognizes that providers have used DNO lists to reduce the number of illegal calls that reach consumers, and the Commission applauds these industry efforts. The Commission finds that enlisting all gateway providers in this effort will further reduce the risk of illegal calls reaching consumers. There is no legitimate reason for the caller to use numbers that appear on a DNO list. Therefore, these calls, if they reach even a single consumer, cause harm. The Commission also declines to deem gateway providers in compliance with this requirement if they have implemented a reasonable DNO in some parts of their network but not at the gateway. The intent of this rule is to stop foreign-originated illegal calls from entering the U.S. network at all. If these calls are not stopped at the gateway, there is a risk that they will not be blocked at all and will therefore reach consumers.

c. No Analytics-Based Call Blocking Mandate

75. The Commission declines at this time to require gateway providers to block calls that are highly likely to be illegal based on reasonable analytics. The Commission agrees with commenters' concerns regarding mandating such blocking. Additionally, the Commission finds that many of the arguments against mandatory blocking generally, while not persuasive in the context of other rules the Commission adopts, are persuasive in this context. An analytics-based blocking mandate would require the Commission to more strictly define ''reasonable analytics'' in order for gateway providers to be certain that they are in compliance with a mandatory blocking rule. To do so may be counter-productive and prevent providers from responding to evolving threats. The Commission is also concerned that providing a strict

definition, while certainly valuable to lawful callers, could potentially provide a road map bad actors could use to circumvent blocking. These concerns, coupled with the need for truly robust redress mechanisms for callers when the blocking is not initiated by the consumer and therefore cannot be corrected by the consumer, support the Commission's decision not to require such blocking at this time. (Several commenters, while objecting to a blocking mandate, urged the Commission to extend its safe harbor for blocking based on reasonable analytics to all providers in the call path, either in conjunction with a mandate or as an alternative. Because the Commission does not adopt such a mandate, it declines to reach the question of whether a safe harbor would be a necessary part of such a requirement. At this time, the Commission also declines to consider further extending the safe harbor absent such a mandate, as such an extension would be outside the scope of this document).

d. No Blocking Safe Harbor

76. Except as described above, the Commission declines to adopt a safe harbor for providers that block consistent with the rules the Commission adopts. Several comments addressing safe harbors focused on blocking based on reasonable analytics, and in some cases on extending the Commission's existing safe harbor instead of mandating blocking. The Commission does not adopt a reasonable analytics blocking mandate, and extending the existing safe harbor is outside of the scope of this document. Other comments did support a safe harbor more broadly, without tying the request to reasonable analytics. However, the Commission finds that the rules it adopts remove the need for such a safe harbor. In the case of blocking based on Commission notification, there is no need for a safe harbor where there is a clear Commission directive to block particular traffic directed at an individual provider. Nor is a safe harbor necessary for the downstream provider blocking requirement because the immediate downstream provider is required to block all traffic from the identified provider, regardless of whether that provider is a gateway provider for the particular traffic. There is no judgment call for a provider to make that could require a safe harbor. The Commission declines CTIA's request to establish a safe harbor is necessary for blocking based on a reasonable DNO list. First, providers have been permitted to engage in this type of blocking since 2017, and no commenter has pointed to any liability issues regarding over-blocking in this context. A gateway provider that is concerned about the possibility that they may not be able to keep a list containing unallocated or unused numbers fully up to date is not required to include those numbers on the list; while these numbers may be included, they are not mandatory. Providers that are concerned about possible under-blocking should take steps to ensure they are making use of a reasonable DNO list, and the Commission sees no reason to provide additional protection.

e. Protections for Lawful Calls

77. Consistent with the Commission's existing blocking rules, gateway providers must never block emergency calls to 911 and must make all reasonable efforts to ensure that calls from PSAPs and Government emergency numbers are not blocked. The Commission declines to adopt additional transparency and redress requirements at this time or extend any other existing requirements that would not already apply to the blocking mandates the Commission adopts. The new mandatory blocking rules either require the Commission to direct blocking, in which case the blocking provider is not in a position to provide redress, or target categories of calls that have been permissible to block since 2017. Some commenters expressed concerns about transparency and redress. The Commission recognizes some concerns regarding the potential for lawful calls to be blocked are valid, such as when a provider relies on analytics to make blocking decisions. These concerns do not apply here, however, where blocking is either at the direction of the Commission or based on a reasonable DNO list.

f. Compliance Deadline

78. The Commission requires gateway and downstream providers to comply with the requirements to block upon Commission notification no later than 60 days after publication of this document in the **Federal Register**. Additionally, the Commission requires gateway providers to comply with the DNO blocking requirement no later than 30 days after publication of notice of OMB approval under PRA. The Commission finds that requiring gateway providers to comply with these rules quickly imposes a minimal burden. In the case of blocking upon Commission notification, gateway providers need not make any changes to their processes prior to receipt of such a notification, and the Commission allows time for a gateway provider to comply following that notification. The Commission acknowledges that gateway providers that do not already block based on a DNO list may need to identify or develop such a list in order to comply with that particular requirement. However, the PRA approval process gives providers ample time to do so, and providers may use one of the existing DNO lists to meet this requirement with minimal burden.

3. ''Know Your Upstream Provider''

79. The Commission adopts a modified version of its proposal to require gateway providers to ''know the customer.'' Recognizing the difficulty posed by a requirement for gateway providers to know information about the caller, who is likely not their customer and with whom they have no relationship, the Commission instead requires gateway providers to ''know'' the immediate upstream foreign provider from which they receive traffic with U.S. numbers in the caller ID field. Specifically, the Commission requires gateway providers to take reasonable and effective steps to ensure that the immediate upstream foreign provider is not using the gateway provider to carry or process a high volume of illegal traffic onto the U.S. network.

80. The record supports deeming the immediate upstream foreign provider as ''customer'' for these purposes, rather than the caller. Though one commenter favored adopting its original proposal, the Commission agrees with other commenters that it would be difficult, if not impossible, for gateway providers to routinely confirm that a particular caller is authorized to use a U.S. number. By definition, a gateway provider is an intermediate provider and is thus at least one step removed from the caller. By contrast, the gateway provider must have a direct relationship with the upstream foreign provider from which it accepts traffic, which allows the gateway provider to ''know'' that upstream provider. This approach best balances the benefit of holding gateway providers responsible for calls they allow into the U.S. network with the difficulty of determining information about a caller that may be several hops away from the gateway.

81. The Commission agrees with the commenter that argues that the Commission's existing, flexible approach to know-your-customer requirements, rather than specific mandates, is appropriate in the gateway context. The Commission does not mandate the steps gateway providers must take in order to ''know'' the upstream foreign provider. Instead, the Commission allows gateway providers

the flexibility to determine the exact measures to take, including whether to adopt contractual provisions with their upstream providers to meet this obligation, and the contours of any such provisions. (The Commission notes that several commenters argued contract terms can be a valuable way of meeting a know-your-customer obligation and mitigating robocalls.) This approach is consistent with the Commission's existing requirement for originating providers to implement effective measures to prevent new and renewing customers from originating illegal calls, and allows each gateway provider to determine the best approach for its network and customers. (For the same reason, the Commission does not require gateway providers to enter into contractual provisions with their upstream provider to meet this know-your-upstream-provider requirement or any other new requirements the Commission adopts. However, gateway providers must explain the steps they have taken to meet their know-your-upstream-provider obligation in their Robocall Mitigation Database certification.) The Commission make clear, however, that gateway providers must take effective steps. If a gateway provider repeatedly allows a high volume of illegal traffic onto the U.S. network, the steps that provider has taken are not effective and must be modified for that provider to be in compliance with the Commission's rules.

82. The Commission recognizes concerns about the effectiveness of such a requirement, since the foreign provider upstream of the gateway may not be the source of the calls. The Commission agrees that the ideal approach would be for any obligation to fall to the originating provider, as in the Commission's existing rules. Unfortunately, in the case of foreign-originated calls, the Commission faces substantial difficulties in enforcing such an obligation on the foreign originating provider. (Due to this jurisdictional issue, the Commission imposes this obligation on the gateway provider as the first U.S.-based provider in the call path.) The Commission recognizes that gateway providers cannot prevent all instances of illegal calls from entering the U.S. network. In particular, a gateway provider's previously effective steps may become unexpectedly ineffective due to changes in factors outside of the gateway provider's control, particularly when the gateway provider is multiple hops from the call originator. (The Commission further acknowledges that, no matter how effective a gateway provider's methods are, some illegal calls may make up a portion of the traffic that it originates onto the U.S. network, and make clear that the fact that some illegal calls evade detection does not necessarily make a gateway provider's methods ineffective. The Commission therefore agrees with parties that asked it to clarify that ''occasionally serving as a gateway provider for illegal robocalls, particularly where those illegal calls are an insignificant fraction of that provider's traffic, does not inherently make the provider's practices ineffective.'' The Commission declines, however, to adopt the specific language proposed by the INCOMPAS et al. May 6 Ex Parte. The Commission makes clear, however, that a ''high volume of illegal traffic'' is a relative measure that is determined, in part, by what percentage of the traffic for which the provider is a gateway provider is illegal.) The Commission therefore reiterates that, as with its existing rule, it does not expect perfection. The Commission does require gateway providers to take reasonable steps, and it encourages gateway providers to regularly evaluate and adjust their approach so that they remain reasonable and effective. (Reasonable steps may include, but are not limited to, investigation of the practices of the upstream provider, modification of contracts to allow termination where issues arise, and/or monitoring incoming traffic for issues on an ongoing, proactive, basis.)

83. Because the Commission does not adopt the exact proposal in the *Gateway Provider FNPRM,* it declines to address roaming or adopt a carve-out for emergency calls. (The Commission further address roaming traffic in the accompanying *FNPRM.*) The rule the Commission adopts does not require gateway providers to block calls when they cannot confirm that the caller is authorized to use a particular U.S. number in the caller ID field, and therefore is unlikely to have detrimental effect on roaming or emergency traffic. The Commission also declines to adopt alternative proposals in the record that fall outside the scope of this document, including YouMail's proposal for post-contracting know-your-customer, i3forum's ''know your traffic'' proposal, or ZipDX's proposal to expand the requirement to cover all high-volume, non-conversational traffic even when such traffic is not foreign originated.

84. *Compliance Deadline.* The Commission requires gateway providers to comply with this rule no later than 180 days after publication of this document in the **Federal Register**. The Commission agrees with the commenter that argued that requiring compliance 30 days after publication may be insufficient for such a requirement. Allowing 180 days after publication ensures that gateway providers have sufficient time to develop effective systems and make any modifications to their networks or practices to implement these measures.

4. General Mitigation Standard

85. In addition to the specific mitigation requirements that the Commission adopts above, it also requires gateway providers to meet a general obligation to mitigate illegal robocalls regardless of whether they have fully implemented STIR/SHAKEN on the IP portions of their network. The Commission takes this step now because of the unique and key role that gateway providers play in the call path. Specifically, the Commission now requires all gateway providers to take ''reasonable steps to avoid carrying or processing illegal robocall traffic.'' The Commission does not require that the gateway provider take specific steps to meet this standard, in line with the existing requirement for voice service providers. The majority of commenters support the adoption of a general mitigation standard for gateway providers.

86. As with voice service providers subject to the ''reasonable steps'' standard, gateway providers must also implement a robocall mitigation program and, as explained above, file that plan along with a certification in the Robocall Mitigation Database. The record reflects significant support for adopting, at a minimum, a mitigation duty for gateway providers in addition to requiring them to submit a certification to the Robocall Mitigation Database. The Commission therefore adopts, consistent with its proposal, a mitigation duty for gateway providers that closely tracks the analogous rule for voice service providers. Specifically, a gateway provider's plan is ''sufficient if it includes detailed practices that can reasonably be expected to significantly reduce the [carrying or processing] of illegal robocalls.'' Moreover, a gateway provider ''must comply with the practices'' that its plan requires, and its program is insufficient if the gateway provider ''knowingly or through negligence [carries or processes calls] for unlawful robocall campaigns.''

87. The Commission requires gateway providers to mitigate traffic under the ''reasonable steps'' standard even if they have implemented STIR/SHAKEN for several reasons. First, the Commission notes the strong support in the record

for requiring gateway provider mitigation, regardless of their STIR/SHAKEN status, with certain commenters explicitly advocating for both gateway provider authentication and mitigation. Commenters agree that gateway providers are uniquely positioned to stop the entry of robocalls into this country, increasing the importance of strong mitigation.

88. Second, both the current record and the experience since the *Second Caller ID Authentication Report and Order* have shown that while STIR/SHAKEN is an effective tool to stop illegal robocalls, it is not a ''silver bullet,'' particularly in those cases where a robocaller is using a properly assigned telephone number. Providers, especially gateway providers serving as the entry point to the U.S. marketplace, can and must do more to stop robocalls. This is particularly the case while STIR/SHAKEN mandates by foreign governments and implementation by foreign providers remain limited.

89. Finally, the Commission anticipates that a general mitigation duty applicable to all gateway providers regardless of whether they have implemented STIR/SHAKEN will ''provide a valuable backstop'' to the other obligations the Commission adopts because call blocking, and traceback based on notice ''cannot take the place of the *proactive* dut[y] to mitigate harmful traffic.'' For all these reasons, the Commission disagrees with INCOMPAS and T-Mobile that it should not impose mitigation obligations on gateway providers that have implemented STIR/SHAKEN and find that requiring gateway providers that have implemented STIR/SHAKEN to also meet the Commission's ''reasonable steps'' mitigation standard ''would be an efficient use of their resources.'' The Commission does not adopt an alternative mitigation standard for gateway providers including a requirement proposed in the *Gateway Provider FNPRM* based on the existing duty for providers to take ''affirmative, effective measures to prevent new and renewing customers from using their network to originate illegal calls.'' The Commission notes, however, that under the rules it adopts, gateway providers must also comply with the ''know-your-upstream-provider standard, and steps a gateway provider takes to meet one standard could meet the other, and *vice versa*.

90. The Commission concludes that gateway providers' key role in facilitating the transmission of foreign-originated robocalls to U.S. consumers warrants imposing the ''reasonable steps'' mitigation duty on these providers without delay. While several commenters argue in the record for adopting more specific and broader duties on all domestic providers, the Commission leaves open for consideration such an expansion in the accompanying *FNPRM.* For example, it does not at this time require gateway providers to take specific actions to meet the ''reasonable steps'' standard. Nor does it require voice service providers or other intermediate providers to comply with the unique requirements it adopts for gateway providers, including the obligation to meet a general mitigation obligation even if they have fully implemented STIR/SHAKEN. Given the scope of the *Gateway Provider FNPRM* and the limited record evidence submitted regarding specific proposals, the Commission does not take these additional steps at this time.

91. *Compliance Deadline.* The Commission requires gateway providers to comply with the ''reasonable steps'' standard within 30 days of the effective date of this document. The Commission concludes that this is an appropriate period because the Commission does not mandate specific steps that gateway providers must take to meet this requirement other than submitting a certification to the Robocall Mitigation Database, and many gateway providers are already mitigating illegal call traffic. The compliance date for the requirement to submit a certification and mitigation plan to the Robocall Mitigation Database is 30 days following **Federal Register** notice of OMB approval of the relevant information collection requirements, and the Commission expects providers to refine their ''reasonable steps'' in light of additional time and marketplace developments prior to submission into the Robocall Mitigation Database.

F. Summary of Cost Benefit Analysis

92. The Commission finds that the benefits of the rules it adopts will greatly outweigh the costs imposed on gateway providers. The Commission sought comment on its belief that the proposed rules, viewed collectively, would account for a large share of the annual $13.5 billion minimum benefit the Commission originally estimated in the *First Caller ID Authentication Report and Order,* 85 FR 22029 (April 21, 2020), and *FNPRM,* 85 FR 22099 (April 21, 2022), because of the large share of illegal calls originating outside of the United States. While some commenters argue that the individual requirements may not provide substantial benefit taken individually or that there is no benefit to imposing obligations solely on gateway providers, others agree that the requirements the Commission adopts will benefit consumers and the calling ecosystem. The Commission finds that these requirements, taken together, will achieve a large share of the annual $13.5 billion minimum benefit. In addition, the Commission finds that there are many additional, non-quantifiable benefits from these rules, including restoring confidence in the U.S. telephone network and reliable access to the emergency and healthcare communications that save lives, reduce human suffering, and prevent the loss of property.

93. The Commission finds that the costs imposed on gateway providers are, in many instances, minimal and in all cases do not exceed the benefits. For example, a number of gateway providers are already required to implement STIR/SHAKEN in some portions of their networks because they do not solely act as gateway or intermediate providers, but may also serve as originating or terminating providers for some calls. In these cases, the additional burden to implement STIR/SHAKEN where a provider is acting as a gateway provider may be limited and has declined over time. Similarly, requiring gateway providers to block, rather than effectively mitigate, illegal traffic when notified by the Commission does not represent a burden increase, and in some cases may even be a burden decrease by eliminating the need to determine what mitigation is effective in a particular instance. As explained, the Commission disagrees with the burden estimates proffered by some commenters. However, even if the Commission does credit those claims, the expected minimum benefit is, as explained, so large that it will greatly outweigh the expected burden. (Contrary to USTelecom's assertion, the Commission does not take the position that it ''can adopt any individual regulation to fight illegal robocalls, no matter the cost or benefit of that particular regulation, as long as the aggregate cost of requirements is less than $13.5 billion.'' Rather, the Commission concludes that the requirements it adopts here will result in a ''large share'' of the $13.5 billion annual projected benefits from eliminating illegal robocalls, and no party has asserted that the purported costs of any or all of these regulations would cost either in one year or over several years a ''large share'' of $13.5 billion.)

94. Moreover, although the rules the Commission adopts will impose higher short-term costs on gateway providers

for implementation, it finds that they will lead to lower long-term costs. Specifically, the Commission finds that an overall reduction in illegal robocalls will greatly lower network costs for the gateway providers and other domestic service providers by eliminating both the unwanted traffic congestion and labor costs of handling numerous customer complaints, and by enabling those providers to trace calls back to the originator more quickly and efficiently.

G. Legal Authority

95. Consistent with its proposals, the Commission adopts the foregoing obligations pursuant to the legal authority the Commission relied on in prior caller ID authentication and call blocking orders. The Commission notes that no commenter questioned its proposed legal authority. (USTelecom suggests that because C-level attestations are ''untethered to the call authentication goal,'' the TRACED Act does not provide authority to adopt a gateway provider authentication requirement. But USTelecom's argument is inapposite because the Commission does not rely on the TRACED Act for its authority to impose this obligation, and USTelecom does not assert that the Commission otherwise lacks authority to impose a gateway provider authentication obligation.)

96. *Caller ID Authentication.* The Commission finds authority to impose caller ID authentication obligations on gateway providers under section 251(e) of the Communications Act of 1934 (the Act) and the Truth in Caller ID Act. In the *Second Caller ID Authentication Report and Order,* the Commission found it had the authority to impose caller ID authentication obligations on intermediate providers under these provisions. It reasoned that ''[c]alls that transit the networks of intermediate providers with illegally spoofed caller ID are exploiting numbering resources'' and so found authority under section 251(e). It found ''additional, independent authority under the Truth in Caller ID Act'' on the basis that such rules were necessary to ''prevent . . . unlawful acts and to protect voice service subscribers from scammers and bad actors,'' stressing that intermediate providers ''play an integral role in the success of STIR/SHAKEN across the voice network.'' While the *Second Caller ID Authentication Report and Order* did not specifically discuss gateway providers, the Commission uses the same legal authority to impose an authentication obligation on gateway providers because it defines gateway providers as a subset of intermediate providers.

97. *Robocall Mitigation and Call Blocking.* The Commission adopts its robocall mitigation and call blocking provisions for gateway providers pursuant to sections 201(b), 202(a), 251(e), the Truth in Caller ID Act, and its ancillary authority, consistent with the authority it invoked to adopt analogous rules.

98. The Commission concludes that section 251(e) and the Truth in Caller ID Act authorizes it to prohibit intermediate providers and voice service providers from accepting traffic from gateway providers that do not appear in the Robocall Mitigation Database. In the *Second Caller ID Authentication Report and Order,* the Commission concluded, ''section 251(e) gives us authority to prohibit intermediate providers and voice service providers from accepting traffic from both domestic and foreign voice service providers that do not appear in [the Robocall Mitigation Database],'' noting that its ''exclusive jurisdiction over numbering policy provides authority to take action to prevent the fraudulent abuse of NANP resources.'' The Commission observed that ''[i]llegally spoofed calls exploit numbering resources whenever they transit any portion of the voice network—including the networks of intermediate providers'' and that ''preventing such calls from entering an intermediate provider's or terminating voice service provider's network is designed to protect consumers from illegally spoofed calls.'' The Commission found that the Truth in Caller ID Act provided additional authority for its actions to protect voice service subscribers from illegally spoofed calls.

99. The Commission also concludes that sections 201(b), 202(a), and 251(e) of the Act, as well as the Truth in Caller ID Act and its ancillary authority, support the mandatory mitigation and blocking obligations the Commission imposes on gateway providers here. In the *Fourth Call Blocking Order,* the Commission required providers ''to take affirmative, effective measures to prevent new and renewing customers from originating illegal calls,'' which includes a duty to ''know'' their customers. Additionally, the Commission required providers, to ''take steps to effectively mitigate illegal traffic when notified by the Commission,'' which may require blocking when applied to gateway providers. The Commission also adopted traceback obligations.

100. The Commission concluded that it had the authority to adopt these requirements pursuant to sections 201(b), 202(a), and 251(e) of the Act, as well as the Truth in Caller ID Act and its ancillary authority. Sections 201(b) and 202(a) provide the Commission with ''broad authority to adopt rules governing just and reasonable practices of common carriers.'' Accordingly, the Commission found that the new blocking rules were ''clearly within the scope of our section 201(b) and 202(a) authority'' and ''that it is essential that the rules apply to all voice service providers,'' applying its ancillary authority in section 4(i). The Commission also found that section 251(e) and the Truth in Caller ID Act provided the basis ''to prescribe rules to prevent the unlawful spoofing of caller ID and abuse of NANP resources by all voice service providers,'' a category that includes Voice over internet Protocol (VoIP) providers and, in the context of the Commission's call blocking orders, gateway providers. The Commission concludes that the same authority provides a basis to adopt the mitigation and blocking obligations on gateway providers the Commission adopts in this document to the extent that gateway providers are acting as common carriers.

101. While the Commission concludes that its direct sources of authority provide an ample basis to adopt its proposed rules on all gateway providers, its ancillary authority in section 4(i) provides an independent basis to do so with respect to gateway providers that have not been classified as common carriers. The Commission concludes that the regulations adopted in this document are ''reasonably ancillary to the Commission's effective performance of its . . . responsibilities'' because gateway providers that interconnect with the public switched telephone network and exchange IP traffic clearly offer ''communication by wire and radio.''

102. Requiring gateway providers to comply with the Commission's proposed rules is reasonably ancillary to the Commission's effective performance of its statutory responsibilities under sections 201(b), 202(a), 251(e), and the Truth in Caller ID Act as described above. With respect to sections 201(b) and 202(a), absent application of the Commission's proposed rules to gateway providers that are not classified as common carriers, originators of international robocalls could circumvent its proposed scheme by sending calls only to such gateway providers to reach the U.S. market.

103. *Indirect Effect on Foreign Service Providers.* The Commission confirms its conclusion in the *Gateway Provider FNPRM* that, to the extent any of the rules it adopts have an effect on foreign

service providers, that effect is only indirect and therefore consistent with the Commission's authority, and the Commission finds that it does not conflict with any of its international treaty obligations. (The Commission expressly sought comment on ''whether any of our proposed rules would be contrary to any of our international treaty obligations.'' No commenter identified any international treaty obligations that would be contravened by the Commission's new requirement, nor is the Commission aware of any.) No commenter argues otherwise. In the *Second Caller ID Authentication Report and Order,* the Commission acknowledged an indirect effect on foreign providers but concluded that it was permissible under Commission precedent affirmed by the courts. This includes the authority, pursuant to section 201, for the Commission to require that U.S. providers modify their contracts with foreign providers with respect to ''foreign communication'' to ensure that the charges and practices are ''just and reasonable,'' as the Commission does here. The obligations the Commission adopts only impose such an indirect effect.

104. Several parties argue that foreign providers may not be able to file in the Robocall Mitigation Database because foreign legal obligations may prevent them from satisfying the traceback obligations imposed on all such filers. (The Commission notes that these obligations arise out of the prohibition established in the *Second Caller ID Authentication Report and Order* on receiving calls carrying U.S. NANP numbers from foreign providers not listed in the Robocall Mitigation Database.) To the extent that foreign providers face *bona fide* domestic legal constraints that conflict with any of the certifications or attestations required of Robocall Mitigation Database filers, the Commission clarifies that they may still submit a certification to the Robocall Mitigation Database. The Commission recommends that foreign providers explain any such domestic legal constraints as part of their certification. The Commission directs the Wireline Competition Bureau to make any limited, necessary changes to the Robocall Mitigation Database to ensure that foreign providers are able to provide any necessary explanations.

II. Order on Reconsideration

105. In this document, the Commission expands the requirement that voice service providers only accept calls carrying U.S. NANP numbers from foreign-originating providers listed in the Robocall Mitigation Database so that domestic providers may only accept calls carrying U.S. NANP numbers sent directly from foreign-originating or intermediate providers that are listed in the Robocall Mitigation Database, including those that have not been de-listed through enforcement action. (The Commission adopts this change in response to both CTIA's and Voice on the Net Coalition's (VON) Petitions, as well as the *Gateway Provider FNPRM,* which sought comment on whether to eliminate, retain, or enhance the requirement that voice service providers only accept calls carrying U.S. NANP numbers from foreign providers listed in the Robocall Mitigation Database.) In doing so, the Commission resolves the petitions of CTIA and VON seeking reconsideration of the existing requirement, and end the stay of enforcement of that requirement in the *Gateway Provider FNPRM.* (The VON Petition also seeks reconsideration of ''the requirement in § 64.6305(b)(4) that voice service providers filing certifications provide the name, telephone number and email address of a central point of contact within the company responsible for addressing robocall-mitigation-related issues.'' The Commission does not address that issue at this time, but may do so at a later date.)

A. Ending the Stay of Enforcement and Extending the Requirement To Include Calls Received Directly From Intermediate Foreign Providers

106. In response to the *Gateway Provider FNPRM* and the Petitions for Reconsideration filed by CTIA and VON, the Commission has reconsidered the requirement that voice service providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database and have concluded that amendment of the initial requirement is necessary to ensure that it more comprehensively protects American consumers from foreign-originated illegal robocalls. The Commission now resumes enforcement of the requirement and expand its scope so that domestic providers now may only accept calls directly from a foreign provider that originates, carries, or processes a call if that foreign provider is registered in the Robocall Mitigation Database and has not been de-listed pursuant to enforcement action. The Commission finds that such an extension of the requirement to include calls received from foreign intermediate providers as well as foreign-originating providers is consistent with the record and will better equip domestic providers to protect American consumers from foreign-originated illegal robocalls without causing widespread disruptions of lawful traffic.

107. Several commenters support this approach, including CTIA. In its comments, CTIA notes that industry stakeholders have made significant strides in encouraging their foreign partners to implement robocall mitigation programs so that they can register in the Robocall Mitigation Database, with many reporting that ''all, or nearly all, of their foreign partners that originate traffic have now registered,'' even absent enforcement of the requirement. Indeed, as of May 17, 2022, 875 foreign voice service providers have filed in the Robocall Mitigation Database, out of a total 6,285 voice service provider filings. To further enhance the effectiveness of the Robocall Mitigation Database in protecting against foreign-originated robocalls, CTIA argues that the Commission should clarify that foreign intermediate providers must also implement robocall mitigation programs and certify to such in the database in order for their traffic to be accepted by domestic providers. CTIA notes that promoting robocall mitigation by foreign intermediate providers in this fashion will promote use of the techniques by all entities in the call path and will help protect U.S. networks from illegal traffic.

108. The Commission agrees with CTIA's conclusions. Given the number of different entities that are typically involved in originating, carrying, processing, and terminating a call, a requirement that applies only to calls received directly from the foreign provider that originated them will capture only a small fraction of the total number of calls that domestic providers accept from foreign providers on a daily basis. To increase the effectiveness of the requirement and to better protect American consumers from foreign-originated illegal robocalls, it is necessary to expand the scope of the requirement to include all calls received directly from a foreign provider that originates, carries, or processes the call in question. This approach obviates the concerns of commenters that a gateway provider likely does not know which provider originated a particular call or where it was originated; it only knows the upstream foreign provider that handed off the call. Indeed, this is one of the reasons the Commission defines ''gateway provider'' in this document as the U.S.-based intermediate provider that receives a call directly from a foreign originating or foreign intermediate provider at its U.S.-based facilities before transmitting the call

downstream to another U.S.-based provider.

109. To ensure that foreign providers have sufficient time to take steps in light of this expanded rule and to facilitate consistent obligations, the Commission will begin enforcing the requirement that providers accept only traffic received directly from foreign providers that originate, carry, or process calls that have filed a certification in the database on the deadline for gateway providers to block traffic sent from foreign providers that originate, carry, or process calls established in this document. That is, enforcement will begin 90 days following the deadline for gateway providers to submit a certification to the Robocall Mitigation Database. This same blocking deadline will also apply to providers to block traffic from foreign *intermediate* providers that were not subject to the prior blocking rule. The date of this deadline is subject to OMB approval for any new information collection requirements. The Commission concludes that this extended period will provide sufficient time for all affected foreign providers to submit a certification to the Robocall Mitigation Database in order to remain on the Database. For similar reasons, the Commission adds ''in the caller ID field'' to the expanded rule to clarify the scope of the requirement and make it consistent with the newly adopted blocking obligation for providers receiving calls from gateway providers.

110. Contrary to the dire outcomes contemplated in CTIA and VON's Petitions discussed below, the requirement that voice service providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database has not resulted in mass confusion or a widespread failure on the part of foreign voice service providers to register in the Robocall Mitigation Database. In reality, a significant number of foreign voice service providers have been made aware of the requirement and have registered in the Robocall Mitigation Database. Now that the Commission has taken the time to ensure that the requirement can be implemented without causing significant disruptions to legitimate, legal traffic, it is time to ensure that the requirement adequately protects American consumers from as many foreign-originated illegal robocalls as possible, and not merely a tiny fraction of such calls. The Commission knows the requirement can work on a practical level, and the Commission finds that the expected benefits will far outweigh any minimal costs that may be imposed on gateway providers. While the rules the Commission adopts in this document provide some additional tools to domestic providers to combat illegal robocalls originating outside the U.S., the Commission must give domestic providers as many tools as it can to protect their customers from as wide a swathe of foreign-originated illegal robocalls as possible. (To quote T-Mobile, the tools the new gateway provider rules represent ''may not be foolproof.'')

111. Several commenters have urged the Commission to reach out to its counterparts in foreign governments and inform them of its latest efforts to protect consumers from illegal robocalls while also encouraging regulators abroad to promote foreign provider participation in robocall mitigation and the Robocall Mitigation Database. The Commission takes this opportunity to reiterate its commitment to continue engaging actively with its international partners abroad to inform them of its latest efforts to combat illegal robocalls and to encourage robocall mitigation efforts on their part as well as participation in the Robocall Mitigation Database among their domestic providers. The Commission recognizes that it is only through active dialogue and cooperation with its international counterparts that it will be able to fully address the scourge of illegal robocalls here at home.

112. *Legal Authority.* The Commission concludes that section 251(e) gives it authority to require intermediate providers and voice service providers to accept traffic only from foreign intermediate providers using U.S. NANP numbering resources in the caller ID field that appear in the Robocall Mitigation Database. As the Commission concluded in the *First Caller ID Authentication Report and Order* and *FNPRM* and affirmed in the *Second Caller ID Authentication Report and Order,* its exclusive jurisdiction over numbering policy provides authority to take action to prevent the fraudulent abuse of U.S. NANP resources. Illegally spoofed calls exploit numbering resources whenever they transit any portion of the voice network—including the networks of intermediate and terminating providers. The Commission's action preventing such calls from entering an intermediate provider's or terminating provider's network is designed to protect consumers from illegally spoofed calls, even while STIR/SHAKEN is not yet ubiquitous. No commenters have challenged the Commission's authority to require voice service providers to accept traffic only from foreign providers that do appear in the Robocall Mitigation Database. (T-Mobile does not challenge the Commission's authority to require intermediate providers and voice service providers to only accept traffic directly from foreign providers that appear in the Robocall Mitigation Database, but it asserts that ''the FCC has no authority over foreign voice service providers.'' The revised rule the Commission adopts does not constitute the exercise of jurisdiction over foreign voice service providers. The Commission acknowledges that this rule will have an indirect effect on foreign voice service providers by incentivizing them to certify to be listed in the database. An indirect effect on foreign voice service providers, however, ''does not militate against the validity of rules that only operate directly on voice service providers within the United States.'' In addition, several commenters raise concerns about whether registering in the Robocall Mitigation Database would have U.S. tax implications for foreign providers, whether registration would subject foreign providers to universal service contributions, and whether such providers would be subject to the Commission's enforcement authority regarding certifications or other matters, such as compliance with traceback requests. In the absence of any showing of any significant tax consequences for foreign providers, and in light of the overwhelming pace at which they have already registered, the Commission concludes that the benefits obtained by its new rules substantially outweigh any such possible consequences. The Commission clarifies that the act of registration in the Robocall Mitigation Database, by itself, would not create a universal service contribution obligation for a foreign provider. Finally, the Commission confirms that the Commission has authority to enforce its rules by ensuring that the Robocall Mitigation Database includes only accurate certifications.) One of the only parties to even touch upon the subject in response to the *First Caller ID Authentication Report and Order* and *FNPRM,* Verizon, agrees that section 251(e) gives the Commission ample authority to ensure foreign VoIP providers ''submit to the proposed registration and certification regime by prohibiting regulated U.S. carriers from accepting their traffic if they do not.''

113. The Commission additionally finds authority in the Truth in Caller ID Act. It finds that the rule the Commission adopts is necessary to enable voice service providers and intermediate providers to help prevent illegal spoofed robocalls and to protect

voice service subscribers from scammers and bad actors that spoof caller ID numbers, and that section 227(e) thus provides additional independent authority for the revised rule the Commission adopts.

B. Petitions for Reconsideration

114. In expanding the scope of the requirement and concluding that domestic providers may only accept calls directly from a foreign provider that originates, carries, or processes a call if that foreign provider is registered in the Robocall Mitigation Database, the Commission plainly disagrees with the CTIA and VON Petitions for Reconsideration requesting that the Commission eliminate or otherwise curtail the requirement or asserting that the Commission violated the Administrative Procedure Act's (APA) notice-and-comment requirement when it adopted this rule in the *Second Caller ID Authentication Report and Order.* The Commission resolves the Petitions as described below.

1. CTIA Petition

115. The Commission denies CTIA's Petition because the evidence in the record demonstrates that the requirement is unlikely to have the negative consequences CTIA fears, and the Commission has already followed CTIA's recommendations to focus on other mitigation efforts and to delay enforcement of the requirement while developing a more substantial record. In its Petition, CTIA raises three primary arguments against the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database: (1) the requirement will cause issues with international roaming that will harm American mobile wireless consumers in the U.S. and abroad; (2) the Commission's other efforts enable providers to protect consumers from illegal and unwanted robocalls from overseas without the need for a requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database; and (3) reconsideration is necessary because evidence of the requirement's impact on American wireless consumers is now available. The Commission addresses each of these arguments in turn.

a. International Roaming

116. CTIA asserts in its Petition that wireless roaming is a ''complex endeavor, which is more complicated internationally, as U.S. mobile network operators have roaming agreements with hundreds of overseas network operators to enable U.S. consumers to remain connected no matter where they travel or move.'' When a mobile wireless consumer abroad uses a U.S. phone number to call a consumer in the U.S., ''that call may be routed from an originating foreign provider's network over long distance routes that involve multiple foreign mobile network operators often on the basis of least cost routing to reach a U.S. intermediate or terminating provider for delivery to the intended recipient.'' Because of this, there are a ''number of hand-offs for a call on its way back to a U.S. consumer, and any one of hundreds of foreign providers could be chosen as the final foreign provider in the call path that interconnects with a U.S. intermediate or terminating provider.'' CTIA asserts that, if that final foreign voice service provider fails to implement a robocall mitigation program and certify to such in the Robocall Mitigation Database, all of its traffic—including legal, legitimate traffic—would be ''prohibited from reaching the intended recipients. . . .'' Thus, CTIA claims that the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database would risk ''significant call completion issues for wireless calls from hundreds of foreign providers' networks, from any mobile wireless consumer using a U.S. phone number to make a call from abroad.'' CTIA also claims that foreign voice service providers that interconnect with U.S. providers will ''likely fail to register'' with the Robocall Mitigation Database in a timely manner. (And BT Americas Inc. asserts in its comments in support of the CTIA Petition that ''the certification process may place foreign carriers in the impossible situation of either having to violate their commitment to the FCC or violate the laws of their home country.'' As the Commission states earlier in this document, to the extent that foreign providers face *bona fide* domestic legal constraints that conflict with any of the certifications or attestations required of Robocall Mitigation Database filers, they may still submit a certification to the Robocall Mitigation Database and explain any such domestic legal constraints as part of their certification.) Thus, CTIA argues that reconsideration of the requirement is needed to prevent unintended blocking of legitimate, legal traffic and to give foreign providers sufficient time to develop robocall mitigation implementation plans and to register with the Commission.

117. The Commission believes that CTIA's concerns are overstated, and in any event the Commission does not find them sufficient to outweigh the benefits of the requirement. In light of the prevalence of foreign-originated illegal robocalls aimed at U.S. consumers, the requirement is a critical tool in combatting such calls. And far from resulting in a widespread failure to register with the Robocall Mitigation Database among foreign service providers, the requirement—along with the diligent and concerted efforts of U.S. providers—seems to have actively encouraged foreign voice service providers to institute robocall mitigation programs abroad and file certifications to be listed in the database and thus have their traffic continue to be accepted by domestic intermediate and terminating providers. As CTIA itself notes in its comments, since the establishment of the requirement in 2020, ''U.S. providers have worked diligently to educate their foreign counterparts about call authentication, robocall mitigation, and registration expectations,'' outreach that has included individual providers engaging directly with their foreign counterparts, as well as efforts to increase awareness of these changes through existing industry bodies such as the GSM Association (GSMA), the Communications Fraud Control Association, and the Messaging, Malware and Mobile Anti-Abuse Working Group (M3AAWG). According to CTIA, this work has produced results, with many foreign voice service providers implementing robocall mitigation plans and registering in the Robocall Mitigation Database even as the requirement has been held in abeyance. Based on the education and outreach efforts of CTIA members, 99% of AT&T's international traffic now comes from carriers registered in the Robocall Mitigation Database. Similarly, T-Mobile reports receiving all of its inbound international traffic from providers registered in the Robocall Mitigation Database, and Verizon states that approximately 99% of the traffic it receives from foreign voice service providers is from those registered in the Robocall Mitigation Database, thus mooting T-Mobile's arguments that the *Second Caller ID Authentication Report and Order* contains little evidence ''showing the likelihood of widespread compliance as a result of industry pressure'' and that the requirement ''will punish U.S. wireless subscribers when they are abroad, along with those in the U.S. whom they may try to call.'' (This result also runs counter to IDT

Telecom, Inc.'s (IDT) concerns that the requirement would be anticompetitive for U.S. companies because it would ''incline toward a handful of foreign wholesalers dominating the aggregation of USA termination, leading to only a small number of US carriers connecting with them.'') Beyond high levels of Robocall Mitigation Database registration among foreign voice service providers, CTIA reports that ''domestic voice service providers have continued to modify their interconnection contracts with foreign providers to focus on the need to mitigate illegal robocall traffic.''

118. Given the extraordinarily high levels at which foreign voice service providers have implemented robocall mitigation programs and registered with the Robocall Mitigation Database even absent enforcement of the requirement, the Commission finds CTIA's initial concerns that foreign voice service providers would fail to register with the database to no longer be an issue. (Nor has there been, as IDT feared, a rash of reciprocal registration and filing requirements for U.S. providers from foreign regulators. As for IDT's concern that the requirement would lead to ''an unequal enforcement problem, as many small operators may turn a blind eye to the requirement of their customers' registration, yet will go undetected because of a low profile,'' such a generalized risk could be said to apply equally to every regulation the Commission adopts and is not a valid reason to refrain from adopting a specific policy or regulation. Moreover, this argument imparts a heightened degree of malicious intent to small providers based purely upon the size of their operations. The Commission do not believe that small providers are any more or less likely to engage in illegal or malicious conduct than are large ones, and the Commission thus rejects the assumptions underpinning this argument.) Indeed, it appears that, much as CTIA intended, the Commission's decision to hold the requirement in abeyance has permitted domestic providers to interface with their foreign counterparts and encourage them to develop robocall mitigation implementation plans and register with the Robocall Mitigation Database. The Commission, therefore, concludes that the requirement should not result in significant call completion issues and that reconsideration based on this concern is unwarranted.

b. Other Efforts To Curb Illegal Robocalls

119. CTIA's second argument is that the Commission's other actions to prevent illegal and unwanted robocalls from outside the United States—including enforcement actions against VoIP providers facilitating illegal voice traffic, encouraging providers to protect international gateways from robocalls, and adopting a safe harbor for blocking traffic from bad actors—are more targeted and less disruptive than the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database. Thus, the Commission ''should continue to focus on these and similar efforts while developing the record'' on the requirement.

120. After having developed a more fulsome record on the requirement in the wake of the *Gateway Provider FNPRM,* the Commission finds that the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database is not disruptive and that its other actions to prevent illegal and unwanted robocalls from overseas are insufficient on their own to properly address the problem of foreign-originated illegal robocalls. As CTIA itself has noted since filing its initial petition, industry outreach to foreign voice service providers has met with great success, with numerous foreign voice service providers implementing robocall mitigation plans and registering in the Robocall Mitigation Database. With 99% of AT&T and Verizon's and 100% of T-Mobile's inbound international traffic now coming from carriers who are registered in the Robocall Mitigation Database, the Commission finds it unlikely that enforcement of the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database will result in widespread call completion issues. At the same time, the Commission believes that the requirement is necessary to supplement its other actions, including enforcement actions against VoIP providers facilitating illegal voice traffic, encouraging providers to protect international gateways from robocalls, and adopting a safe harbor for blocking traffic from bad actors. While these steps are certainly important, merely encouraging providers to protect international gateways from illegal foreign-originated robocalls and adopting a safe harbor for those who block traffic from bad actors is not sufficient. If the Commission is to adequately address the significant problem of foreign-originated robocalls, just as with U.S. originated robocalls, those receiving such calls (here, gateway providers) must explicitly be required to accept only those calls carrying U.S. NANP numbers from foreign voice service providers that are listed in the Robocall Mitigation Database. To address the endemic practice of illegal robocalling, the Commission must use every tool at its disposal, especially those which have been shown not to result in significant call completion issues. The Commission thus finds CTIA's second argument unpersuasive.

c. Availability of Additional Evidence

121. CTIA's final argument is that reconsideration is appropriate because the Commission did not, in the *Second Caller ID Authentication Report and Order,* seek comment on the impacts of the requirement on international wireless roaming. Without such record evidence, CTIA contends, the Commission lacked ''sufficient support to prohibit domestic intermediate and terminating providers from completing calls from foreign voice service providers that have not certified in the [Robocall Mitigation Database].'' Thus, CTIA claims that the Commission should reconsider the requirement and further develop its record so that it can craft a ''more reasonable approach to encourage international provider certification'' without jeopardizing U.S. consumers or the U.S. voice network.

122. As noted above, the Commission solicited a more robust record in response to the *Gateway Provider FNPRM* regarding the requirement and its possible effects. As that record shows, efforts to educate foreign voice service providers and encourage implementation of robocall mitigation programs and registration with the Robocall Mitigation Database have met with great success. Foreign providers have been granted time to develop robocall mitigation implementation plans and register with the Robocall Mitigation Database, and they appear to have used that time well. In light of this success, the Commission feels confident that it may proceed with enforcement of the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database without causing significant disruption to the completion of legal, legitimate traffic. The requirement, as crafted, is already ''reasonable,'' and addresses illegal robocalls originating from outside the United States without jeopardizing U.S. consumers or the U.S. voice network.

123. For the forgoing reasons, the Commission denies CTIA's petition.

2. VON Petition

124. VON's Petition relies largely on a single argument in seeking reconsideration of the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign providers listed in the Robocall Mitigation Database—that the requirement violates the APA because the Commission failed to solicit and consider public comment on it. Thus, VON contends that the Commission should seek additional comments on the proposal to ''allow for a more thoughtful vetting of an otherwise very complicated issue.'' The Commission denies the VON Petition on substantive grounds for the reasons stated below. The Commission alternatively dismisses the Petition as mooted by the Commission's decision to hold enforcement of the requirement in abeyance until a final decision was reached regarding whether to eliminate, retain, or enhance the requirement and the Commission's request for comments on the scope of the requirement in the *Gateway Provider FNPRM.*

a. The Requirement That Domestic Providers Only Accept Calls From Foreign Voice Service Providers Listed in the Robocall Mitigation Database Complies With APA Notice-and-Comment Requirements

125. In the *First Caller ID Authentication Report and Order* and *FNPRM,* the Commission proposed that, when an intermediate provider receives an unauthenticated call that it will exchange with another intermediate or voice service provider as a SIP call, it must authenticate such a call with a ''gateway'' or C-level attestation. In seeking comment on that proposal, the Commission noted that multiple commenters had supported imposing STIR/SHAKEN requirements on gateway providers as a way to identify robocalls that originate abroad and to identify which provider served as the entry point for these calls to U.S. networks. The Commission then sought comment on whether this was an effective way to combat illegal calls originating outside the U.S. and whether there were ''other rules involving STIR/SHAKEN that we should consider regarding intermediate providers to further combat illegal calls originating abroad.'' The Commission also reiterated Verizon's suggestion that the Commission impose an obligation to use STIR/SHAKEN on any provider, regardless of its geographic location, if it intends to allow its customers to use U.S. telephone numbers, as well as USTelecom's proposal that the Commission consider obligating gateway providers to pass international traffic only to downstream providers that have implemented STIR/SHAKEN. The Commission sought comment on both proposals and asked if there were any other actions it could take to promote caller ID authentication implementation to combat robocalls originating abroad.

126. In response to the *First Caller ID Authentication Report and Order* and *FNPRM,* several commenters filed initial comments expressing support for combating robocalls originating abroad by requiring foreign voice service providers that appear in the Robocall Mitigation Database to follow the same requirements as domestic voice service providers.

127. Courts have long held that the APA requires that the final rule that an agency adopts be a ''logical outgrowth of the rule proposed.'' While the Commission did not explicitly propose a rule in the *First Caller ID Authentication Report and Order* and *FNPRM* requiring domestic intermediate and terminating providers to accept calls only from foreign voice service providers that use U.S. NANP numbers and are listed in the Robocall Mitigation Database, it did seek comment on: (1) whether to impose STIR/SHAKEN requirements on gateway providers as a way to identify robocalls that originate abroad; (2) whether there were other rules involving STIR/SHAKEN that the Commission should consider regarding intermediate providers to further combat illegal calls originating abroad; (3) Verizon's suggestion to impose on any provider, regardless of its geographic location, an obligation to use STIR/SHAKEN; (4) USTelecom's proposal that the Commission consider obligating gateway providers to pass international traffic only to downstream providers that have implemented STIR/SHAKEN; and (5) whether there were any other actions the Commission could take to promote caller ID authentication implementation to combat robocalls originating abroad. The Commission concludes that the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database is a logical outgrowth of these repeated and specific requests for comment on the types of obligations the Commission should impose on gateway providers that accept traffic from foreign voice service providers. Indeed, while it did not specifically mention the requirement in its final adopted form, the Commission did seek comment on whether to impose STIR/SHAKEN requirements on gateway providers, as well as other actions that would promote caller ID authentication implementation and combat foreign-originated robocalls.

128. That this requirement is a logical outgrowth of such requests for comment is evident from the fact numerous entities filed comments in response to the *First Caller ID Authentication Report and Order* and *FNPRM* voicing support for combating robocalls originating abroad by requiring foreign voice service providers that appear in the Robocall Mitigation Database to follow the same requirements as domestic voice service providers. While the two are not exactly the same, this notion of requiring foreign voice service providers who file with the Robocall Mitigation Database to fulfill the same requirements as domestic providers is quite similar to the requirement the Commission eventually adopted, and the fact that it was mentioned by multiple commenters indicates that the requirement was indeed a logically foreseeable outgrowth of the language in the *First Caller ID Authentication Report and Order* and *FNPRM.* Even were it not a logical outgrowth of the *First Caller ID Authentication Report and Order* and *FNPRM,* the possibility of a requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign providers listed in the Robocall Mitigation Database was raised in the initial comments and was open to consideration and comment during the reply stage.

129. The Commission thus finds VON's claim that the adoption of the requirement violated the APA to be baseless and, accordingly, deny their Petition on substantive grounds.

b. VON's Petition Is Moot

130. Independently, and in the alternative, the Commission finds that the Commission's decision to hold enforcement of the requirement in abeyance until it reached a final decision regarding whether to eliminate, retain, or enhance the requirement, together with the Commission's request for comments on the scope of the requirement in the *Gateway Provider FNPRM,* renders the VON Petition moot. Even assuming *arguendo* that the initial adoption of the requirement in the *Second Caller ID Authentication Report and Order* violated the notice and comment requirements of the APA, the same cannot be said of the *Gateway Provider FNPRM,* which specifically and extensively sought comment on

whether ''to eliminate, retain, or enhance'' the requirement.

131. Much like CTIA in its own Petition, VON did not call for the wholesale elimination of the requirement that domestic providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database, but merely time to solicit additional comment and allow for further consideration of the requirement. Regardless of whether the *First Caller ID Authentication Report and Order* and *FNPRM* provided notice and an opportunity to comment on the requirement, the *Gateway Provider FNPRM* undoubtedly provided both. The Commission in the *Gateway Provider FNPRM* stated that, until a final decision was made regarding whether to eliminate, retain, or enhance the requirement, it would not enforce the requirement that domestic voice service providers and intermediate providers accept only traffic carrying U.S. NANP numbers sent directly from foreign voice service providers listed in the Robocall Mitigation Database. (The Commission treats its holding enforcement of the prohibition in abeyance the same as a stay.) As the Commission has satisfied the terms of VON's Petition, the Commission dismisses it as moot. (As with the CTIA Petition, the Commission notes that the concerns raised in the VON Petition—namely, that the requirement would limit the number of foreign carriers who can terminate calls in the U.S., restrict the ability of U.S. carriers to terminate calls on behalf of U.S. customers to foreign points, and lead to the disruption of legitimate, non-harmful traffic—have proved to be largely unfounded in the wake of adoption of the requirement, and as noted above, 99% of AT&T and Verizon's and 100% of T-Mobile's inbound international traffic currently comes from carriers who are registered in the Robocall Mitigation Database. Thus, as with CTIA's concerns, the Commission finds VON's concerns about the potential failure of foreign providers to register in the database to be largely baseless in reality.)

132. Because the Commission finds that adoption of the requirement that domestic voice service providers and domestic intermediate providers only accept calls carrying U.S. NANP numbers from foreign voice service providers listed in the Robocall Mitigation Database did not violate the APA's notice-and-comment requirements and that VON's Petition is mooted by the Commission's decision to hold enforcement of the requirement in abeyance while the Commission sought comment on whether to eliminate, retain, or enhance the requirement, the Commission denies VON's Petition on substantive grounds and independently, and in the alternative, dismiss it as moot.

III. Order

133. In this document, the Commission makes a ministerial change to a codified rule required to correct an inadvertent typographical error and spell out an undefined acronym. The Commission revises § 64.6300(f) of its rules, which defines the term ''intermediate provider,'' to change the word ''carriers'' to ''carries'' and to change the reference to ''PSTN'' to ''public switched telephone network.'' The Commission finds that there is good cause for adopting this amendment here because the typographical error may confuse those seeking to understand how the Commission defines the term ''intermediate provider'' for purposes of complying with its rules governing caller ID authentication, and the use of undefined acronyms, even if well known, is not preferable.

134. Section 553 of the Administrative Procedure Act permits the Commission to amend the Commission's rules without undergoing notice and comment where the Commission finds good cause that doing so is ''impracticable, unnecessary, or contrary to the public interest.'' The Commission has previously determined that notice and comment is not necessary for ''editorial changes or corrections of typographical errors.'' Consistent with Commission precedent, in this instance the Commission finds that notice and comment is unnecessary for adopting a ministerial revision to § 64.6300(f) to correct an inadvertent typographical error and spell out an undefined acronym in the definition of ''intermediate provider.''

IV. Final Regulatory Flexibility Analysis

135. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Further Notice of Proposed Rulemaking* adopted in September 2021 (*Gateway Provider FNPRM*). (The RFA, 5 U.S.C. 601–612, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). The Commission sought written public comment on the proposals in the *Gateway Provider FNPRM,* including comment on the IRFA. The comments received are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Order

136. First, this document takes important steps in the fight against foreign-originated illegal robocalls by holding gateway providers responsible for the calls they allow onto the U.S. network. Finally, the *Order on Reconsideration* in this document strengthens the prohibition on receiving calls carrying U.S. NANP numbers from foreign providers not listed in the Robocall Mitigation Database. The decisions the Commission makes here protect American consumers from unwanted and illegal calls while balancing the legitimate interests of callers placing lawful calls.

137. *Gateway Provider Report and Order.* This document takes important steps to protect consumers from foreign-originated illegal robocalls. These steps help stem the tide of foreign-originated illegal robocalls, which are a significant portion, if not the majority, of illegal robocalls. As the entry point onto the U.S. network for these calls, gateway providers are best positioned to protect all American consumers. Because there is no single solution to the illegal robocall problem, this document addresses this issue from several angles, all focused on reducing the number of foreign-originated illegal calls American consumers receive and aiding in identifying bad actors.

138. First, this document requires gateway providers to submit a certification and plan to the Robocall Mitigation Database describing their robocall mitigation practices and stating that they are adhering to those practices, regardless of whether they have fully implemented STIR/SHAKEN, and requires downstream domestic providers receiving traffic from gateway providers to block traffic from such a provider if the gateway provider has not submitted a certification in the Robocall Mitigation Database. Second, this document requires gateway providers to implement STIR/SHAKEN to authenticate SIP calls that are carrying a U.S. number in the caller ID field. Third, it requires gateway providers to fully respond to traceback requests from the Commission, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of such a request. Fourth, it requires gateway providers to block illegal traffic when notified of such traffic by the

Commission and the providers immediately downstream from the gateway to block all traffic from the identified provider when notified by the Commission that the gateway provider failed to meet its obligation to block illegal traffic. This rule builds on the Commission's existing effective mitigation requirement and bad-actor provider blocking safe harbor, and proscribes specific steps that the Enforcement Bureau must take before directing downstream providers to block. Fifth, it requires gateway providers to block using a reasonable do-not-originate (DNO) list. Sixth, it requires gateway providers to take reasonable and effective steps to ensure that the immediate upstream provider is not using the gateway provider to originate a high volume of illegal traffic onto the U.S. network. Finally, it requires gateway providers to meet a general obligation to mitigate illegal robocalls regardless of whether they have fully implemented STIR/SHAKEN on the IP portions of their network.

139. *Order on Reconsideration.* The *Order on Reconsideration* in this document strengthens the existing prohibition on receiving calls carrying U.S. NANP numbers from foreign providers not listed in the Robocall Mitigation Database. To ensure that all foreign providers are brought within the prohibition, the *Order on Reconsideration* in this document modifies the rule such that the prohibition applies to calls directly from a foreign provider that originates, carries, or processes a call if that foreign provider is not listed in the Robocall Mitigation Database.

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

140. There were no comments raised that specifically addressed the proposed rules and policies presented in the *Gateway Provider FNPRM* IRFA. Nonetheless, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and took steps where appropriate and feasible to reduce the compliance burden for small entities in order to reduce the economic impact of the rules enacted herein on such entities.

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

141. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

142. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. (Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'') A ''small-business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

143. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

144. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. (The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C. 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. The Commission notes that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.) Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS. (The IRS Exempt Organization Business Master File (E.O. BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS E.O. BMF data for businesses for the tax year 2020 with revenue less than or equal to $50,000, for Region 1—Northeast Area (58,577), Region 2—Mid-Atlantic and Great Lakes Areas (175,272), and Region 3—Gulf Coast and Pacific Coast Areas (213,840) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.)

145. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments (the Census of Governments survey is conducted every five (5) years compiling data for years ending with ''2'' and ''7'') indicates that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. (Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts).) Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. (There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments. There were

18,729 municipal and 16,097 town and township governments with populations less than 50,000. There were 12,040 independent school districts with enrollment populations less than 50,000. While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.) Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.'' (This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments—independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments—Organizations tbls. 5, 6 & 10.)

1. Wireline Carriers

146. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. (Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.)

147. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

148. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. (Fixed Local Exchange Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.) The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

149. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

150. *Competitive Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. (Competitive Local Exchange Service Providers include the following types of providers: Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.) Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees

as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers. Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

151. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

152. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for small cable system operators, which classifies ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000,'' as small. As of December 2020, there were approximately 45,308,192 basic cable video subscribers in the top Cable multiple system operators (MSOs) in the United States. Accordingly, an operator serving fewer than 453,082 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, all but five of the cable operators in the Top Cable MSOs have less than 453,082 subscribers and can be considered small entities under this size standard. The Commission notes however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. (The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(e) of the Commission's rules.) Therefore, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

153. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 115 providers that reported they were engaged in the provision of other toll services. Of these providers, the Commission estimates that 113 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

2. Wireless Carriers

154. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

155. *Satellite Telecommunications.* This industry comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $35 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. The Commission also notes that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite

telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than of these providers can be considered small entities.

3. Resellers

156. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

157. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 495 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

158. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. Telecommunications Resellers. is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.) Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 58 providers that reported they were engaged in the provision of payphone services. Of these providers, the Commission estimates that 57 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

4. Other Entities

159. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.,* dial-up internet service providers (ISPs)) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. (The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. The Commission also notes that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably.) Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

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

160. The *Gateway Provider Report and Order and Order on Reconsideration* require providers, primarily but not exclusively gateway providers, to meet certain obligations. These changes affect small and large companies equally and apply equally to all the classes of regulated entities identified above.

161. *Gateway Provider Report and Order.* This document requires gateway providers to submit a certification and plan to the Robocall Mitigation Database describing their robocall mitigation practices and stating that they are adhering to those practices, regardless of whether they have fully implemented

STIR/SHAKEN. Additionally, downstream domestic providers receiving traffic from gateway providers must block traffic from such a provider if the gateway provider has not submitted a certification in the Robocall Mitigation Database. Gateway providers are not required to describe their mitigation program in a particular manner, but must clearly explain how they are complying with the know-your-upstream-provider obligation adopted in this document.

162. A gateway provider must certify whether it has fully, partially, or not implemented STIR/SHAKEN, and include a statement in its certification that it commits to responding fully to all traceback requests from the Commission, law enforcement, and the industry traceback consortium and cooperate with such entities in investigating and stopping illegal robocalls. Submissions may be made confidentially consistent with the Commission's existing confidentiality rules. All information must be submitted in English or with a certified English translation and updated within 10 business days. Gateway providers must provide the same identifying information submitted by voice service providers.

163. Gateway providers must also implement STIR/SHAKEN to authenticate SIP calls that are carrying a U.S. number in the caller ID field. To comply with this requirement, a gateway provider must authenticate caller ID information for all SIP calls it receives for which the caller ID information has not been authenticated and which it will exchange with another provider as a SIP call consistent with the relevant ATIS standards. Gateway providers have the flexibility to assign the level of attestation appropriate to the call based on the current version of the standards and the call information available to the gateway provider. A gateway provider using non-IP network technology in all or a portion of its network must provide the Commission, upon request, with documented proof that it is participating, either on its own or through a representative, as a member of a working group, industry standards group, or consortium that is working to develop a non-IP solution, or actively testing such a solution. Under this rule, a gateway provider satisfies its obligations if it participates through a third-party representative, such as a trade association of which it is a member or vendor.

164. Gateway providers, and, in one case, any intermediate or terminating provider immediately downstream from the gateway, must also satisfy several robocall mitigation requirements. These requirements apply to any gateway provider, regardless of whether or not they have fully implemented STIR/SHAKEN on the IP portions of their network.

165. First, gateway providers must fully respond to traceback requests from the Commission, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of such a request. The gateway provider should respond with information about the provider from which it directly received the call.

166. Second, gateway providers, and in one case, any intermediate or terminating provider immediately downstream from the gateway, must block calls in certain instances. Specifically, the gateway provider must block illegal traffic once notified of such traffic by the Commission through its Enforcement Bureau. In order to comply with this requirement, gateway providers must block traffic that is substantially similar to the identified traffic on an ongoing basis. When a gateway provider fails to comply with this requirement, the Commission may require providers immediately downstream from a gateway provider to block all traffic from the identified provider when notified by the Commission. As part of this requirement, a notified gateway provider must promptly report the results of its investigation to the Enforcement Bureau, including, unless the gateway provider determines it is either not a gateway provider for any of the identified traffic or that the identified traffic is not illegal, both a certification that it is blocking the identified traffic and will continue to do so and a description of its plan to identify the traffic on an ongoing basis. In order to comply with the downstream provider blocking requirement, all providers must monitor EB Docket No. 22–174 and initiate blocking within 30 days of a Blocking Order being released. Gateway providers must also block based on a reasonable do-not-originate (DNO list). Gateway providers are allowed flexibility to select the list that works best for them, so long as it is reasonable and only includes invalid, unallocated, and unused numbers, as well as numbers for which the subscriber to the number has requested blocking.

167. Third, gateway providers must take reasonable and effective steps to ensure that the immediate upstream provider is not using the gateway provider to originate a high volume of illegal traffic onto the U.S. network. Gateway providers have flexibility to determine the exact measures to take, so long as those steps are effective. Finally, gateway providers must meet a general obligation to mitigate illegal robocalls. Gateway providers are not required to take specific steps to satisfy this obligation, but must implement ''reasonable steps'' to avoid carrying or processing illegal robocall traffic and must also implement a robocall mitigation program and, as explained below, file that plan along with a certification in the Robocall Mitigation Database.

168. The *Order on Reconsideration* in this document strengthens the existing rule requiring downstream providers to block calls carrying U.S. NANP numbers sent from foreign providers not listed in the Robocall Mitigation Database. It modifies the requirement to apply to calls sent directly from a foreign provider that originates, as well as carries or processes a call carrying a U.S. NANP number. Therefore, a downstream domestic provider must block such calls sent directly from any foreign provider not listed in the Robocall Mitigation Database.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

169. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

170. Generally, the decisions the Commission made in this document apply to all providers generally, and do not impose unique burdens or benefits on small providers. Small providers are as capable of being the entry-point onto the U.S. network for illegal calls as large providers, which necessitates equal treatment if the Commission is to protect consumers from these calls. However, the Commission did take steps to ensure that providers, including small providers, would not be unduly burdened by these requirements. Specifically, the Commission allowed flexibility where appropriate to ensure that providers, including small providers, can determine the best

approach for compliance based on the needs of their networks. For example, gateway providers have the flexibility to determine their proposed approach to blocking illegal traffic when notified by the Commission, to choose a reasonable DNO list, and to determine the steps they take to ''know the upstream provider.'' A similarly flexible approach applies to the requirement for gateway providers to implement and describe their mitigation plan filed in the Robocall Mitigation Database.

G. Report to Congress

171. The Commission will send a copy of the *Gateway Provider Report and Order and Order on Reconsideration,* including the FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Gateway Provider Report and Order and Order on Reconsideration,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Gateway Provider Report and Order and Order on Reconsideration* (or summaries thereof) will also be published in the **Federal Register**.

V. Procedural Matters

172. *Paperwork Reduction Act.* This document may contain new and modified information collection requirements subject to the PRA, Public Law 104–13. Specifically, the rules adopted in 47 CFR 64.1200(n)(1) and (o), 64.6303(b), 64.6305(b), (c)(2), and (d) may require new or modified information collections. This document will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. The modification to 47 CFR 64.6305(c)(2) is non-substantive and will be submitted to OMB in accordance with its process for non-substantive changes. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

173. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Gateway Provider FNPRM.* The Commission sought written public comment on the possible significant economic impact on small entities regarding the proposals addressed in the *Gateway Provider FNPRM,* including comments on the IRFA. Pursuant to the RFA, a Final Regulatory Flexibility Analysis is set forth in Section II above. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Gateway Provider Report and Order,* including the Final Regulatory Flexibility Analysis (FRFA), to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

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

VI. Ordering Clauses

175. Accordingly, pursuant to sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403, *it is ordered* that the *Gateway Provider Report and Order is adopted.*

176. *It is further ordered that,* pursuant to sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 202, 217, 227, 227b, 251(e), 303(r), 403, and 405, the *Order on Reconsideration is adopted.*

177. *It is further ordered that,* pursuant to sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 202, 217, 227, 227b, 251(e), and 303(r), the *Gateway Provider Report and Order is adopted.*

178. *It is further ordered* that parts 0 and 64 of the Commission's rules *are amended* as set forth in the Final Rules.

179. *It is further ordered* that, pursuant to §§ 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), and the *Gateway Provider Report and Report and Order shall be effective* 60 days after publication in the **Federal Register**. Compliance with 47 CFR 64.1200(n)(1) and (o) will not be required until OMB completes any review that the Consumer and Governmental Affairs Bureau determines is required under the PRA. The Commission directs the Consumer and Governmental Affairs Bureau to announce a compliance date by subsequent notification and to cause 47 CFR 64.1200(n)(1) and (o) to be revised accordingly. Compliance with 47 CFR 64.6303(b) and 64.6305(b), (c)(2), and (d) will not be required until OMB completes any review that the Wireline Competition Bureau determines is required under the PRA. The Commission directs the Wireline Competition Bureau to announce a compliance date by subsequent notification and to cause 47 CFR 64.6303(b) and 64.6305(b), (c)(2), and (d) to be revised accordingly.

180. *It is further ordered* that the Petition for Partial Reconsideration filed by CTIA *is denied.*

181. *It is further ordered that* the Petition for Reconsideration filed by Voice on the Net Coalition *is denied in part* and, in the alternative, *dismissed in part.*

182. *It is further ordered* that the *Order on Reconsideration* and *Gateway Provider Report and Order shall be* effective 60 days after publication in the **Federal Register**.

183. *It is further ordered* that the Office of the Managing Director, Performance Evaluation and Records Management, *shall send* a copy of the *Gateway Provider Report and Order and Order on Reconsideration* 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).

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

List of Subjects

47 CFR Part 0

Authority delegations (Government agencies), Communications, Communications common carriers, Classified information, Freedom of information, Government publications, Infants and children, Organization and functions (Government agencies), Postal Service, Privacy, Reporting and

recordkeeping requirements, Sunshine Act, Telecommunications.

47 CFR Part 64

Carrier equipment, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

The Federal Communications Commission amends parts 0 and 64 of title 47 of the Code of Federal Regulations as follows:

PART 0—COMMISSION ORGANIZATION

Subpart A—Organization

■ 1. The authority citation for part 0, subpart A, continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 2. Amend § 0.111 by revising paragraph (a)(27) and adding paragraph (a)(28) to read as follows:

§ 0.111 Functions of the Bureau.

(a) * * *

(27) Identify suspected illegal calls and provide written notice to voice service providers. The Enforcement Bureau shall:

(i) Identify with as much particularity as possible the suspected traffic;

(ii) Cite the statutory or regulatory provisions the suspected traffic appears to violate;

(iii) Provide the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful, including any relevant nonconfidential evidence from credible sources such as the industry traceback consortium or law enforcement agencies; and

(iv) Direct the voice service provider receiving the notice that it must comply with § 64.1200(n)(2) or (5) of this chapter.

(28) Take enforcement action, including de-listing from the Robocall Mitigation Database, against any provider:

(i) Whose certification described in § 64.6305(c) and (d) of this chapter is deficient after giving that provider notice and an opportunity to cure the deficiency; or

(ii) Who accepts calls directly from a domestic voice service provider, gateway provider, or foreign provider not listed in the Robocall Mitigation Database in violation of § 64.6305(e) of this chapter.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 3. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising

■ 4. Amend § 64.1200 by:

■ a. Adding paragraphs (f)(19);

■ b. Revising paragraphs (k)(5) and (6) and (n)(1); and

■ c. Adding paragraphs (n)(4) through (6), (o), and (p).

The additions and revisions read as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(f) * * *

(19) The term *gateway provider* means a U.S.-based intermediate provider that receives a call directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider. For purposes of this paragraph (f)(19):

(i) *U.S.-based* means that the provider has facilities located in the United States, including a point of presence capable of processing the call; and

(ii) *Receives a call directly* from a provider means the foreign provider directly upstream of the gateway provider in the call path sent the call to the gateway provider, with no providers in-between.

* * * * *

(k) * * *

(5) A provider may not block a voice call under paragraphs (k)(1) through (4), paragraph (k)(11), paragraphs (n)(5) and (6), or paragraph (o) of this section if the call is an emergency call placed to 911.

(6) When blocking consistent with paragraphs (k)(1) through (4), paragraph (k)(11), paragraphs (n)(5) and (6), or paragraph (o) of this section, a provider must making all reasonable efforts to ensure that calls from public safety answering points and government emergency numbers are not blocked.

* * * * *

(n) * * *

(1) Upon receipt of a traceback request from the Commission, civil law enforcement, criminal law enforcement, or the industry traceback consortium:

(i) If the provider is an originating, terminating, or non-gateway intermediate provider for all calls specified in the traceback request, the provider must respond fully and in a timely manner;

(ii) If the provider receiving a traceback request is the gateway provider for any calls specified in the traceback request, the provider must fully respond to the traceback request within 24 hours of receipt of the request. The 24-hour clock does not start outside of business hours, and requests received during that time are deemed received at 8 a.m. on the next business day. If the 24-hour response period would end on a non-business day, either a weekend or a Federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. For example, a request received at 3 p.m. on a Friday will be due at 3 p.m. on the following Monday, assuming that Monday is not a Federal legal holiday. For purposes of this paragraph (n)(1)(ii), *business day* is defined as Monday through Friday, excluding Federal legal holidays, and *business hours* is defined as 8 a.m. to 5:30 p.m. on a business day. For purposes of this paragraph (n)(1)(ii), all times are local time for the office that is required to respond to the request.

* * * * *

(4) If the provider acts as a gateway provider, take reasonable and effective steps to ensure that any foreign originating provider or foreign intermediate provider from which it directly receives traffic is not using the gateway provider to carry or process a high volume of illegal traffic onto the U.S. network. Compliance with this paragraph (n)(4) will not be required until January 16, 2023.

(5) If the provider acts as a gateway provider, and is properly notified under this section, block identified illegal traffic and any substantially similar traffic on an ongoing basis (unless its investigation determines that the traffic is not illegal) when it receives actual written notice of such traffic by the Commission through its Enforcement Bureau. The gateway provider will not be held liable under the Communications Act or the Commission's rules in this chapter for gateway providers that inadvertently block lawful traffic as part of the requirement to block substantially similar traffic so long as it is blocking consistent with the requirements of this paragraph (n)(5). For purposes of this paragraph (n)(5), *identified traffic* means the illegal traffic identified in the Notification of Suspected Illegal Traffic

issued by the Enforcement Bureau. The following procedures shall apply:

(i)(A) The Enforcement Bureau will issue a Notification of Suspected Illegal Traffic that identifies with as much particularity as possible the suspected illegal traffic; provides the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful; cites the statutory or regulatory provisions the identified traffic appears to violate; and directs the provider receiving the notice that it must comply with this section. The Enforcement Bureau's Notification of Suspected Illegal Traffic shall give the identified provider a minimum of 14 days to comply with the notice. Each notified provider must promptly investigate the identified traffic and report the results of that investigation to the Enforcement Bureau within the timeframe specified in the Notification of Suspected Illegal Traffic. If the provider's investigation determines that it served as the gateway provider for the identified traffic, it must block the identified traffic within the timeframe specified in the Notification of Suspected Illegal Traffic and include in its report to the Enforcement Bureau:

(*1*) A certification that it is blocking the identified traffic and will continue to do so; and

(*2*) A description of its plan to identify and block substantially similar traffic on an ongoing basis.

(B) If the provider's investigation determines that the identified traffic is not illegal, it shall provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion. Absent such a showing, or if the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the identified traffic will be deemed illegal. If the notified provider determines during this investigation that it did not serve as the gateway provider for any of the identified traffic, it shall provide an explanation as to how it reached that conclusion and, if it is a non-gateway intermediate or terminating provider for the identified traffic, it must identify the upstream provider(s) from which it received the identified traffic and, if possible, take lawful steps to mitigate this traffic. If the notified provider determines that it is the originating provider, or the traffic otherwise comes from a source that does not have direct access to the U.S. public switched telephone network, it must promptly comply with paragraph (n)(2) of this section by effectively mitigating the identified traffic and reporting to the Enforcement Bureau any steps it has taken to effectively mitigate the identified traffic. If the Enforcement Bureau finds that an approved plan is not blocking substantially similar traffic, the identified provider shall modify its plan to block such traffic. If the Enforcement Bureau finds, that the identified provider continues to allow suspected illegal traffic onto the U.S. network, it may proceed under paragraph (n)(5)(ii) or (iii) of this section as appropriate.

(ii) If the provider fails to respond to the Notification of Suspected Illegal Traffic, the Enforcement Bureau determines that the response is insufficient, the Enforcement Bureau determines that the gateway provider is continuing to allow substantially similar traffic onto the U.S. network after the timeframe specified in the Notification of Suspected Illegal Traffic, or the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the Enforcement Bureau shall issue an Initial Determination Order to the gateway provider stating the Bureau's initial determination that the gateway provider is not in compliance with this section. The Initial Determination Order shall include the Enforcement Bureau's reasoning for its determination and give the gateway provider a minimum of 14 days to provide a final response prior to the Enforcement Bureau making a final determination on whether the provider is in compliance with this section.

(iii) If the gateway provider does not provide an adequate response to the Initial Determination Order within the timeframe permitted in that Order or continues to allow substantially similar traffic onto the U.S. network, the Enforcement Bureau shall issue a Final Determination Order finding that the gateway provider is not in compliance with this section. The Final Determination Orders shall be published in EB Docket No. 22–174 at *https://www.fcc.gov/ecfs/search/search-filings.* A Final Determination Order may be issued up to one year after the release date of the Initial Determination Order, and may be based on either an immediate failure to comply with this rule or a determination that the gateway provider has failed to meet its ongoing obligation under this rule to block substantially similar traffic.

(6) When notified by the Commission through its Enforcement Bureau that a Final Determination Order has been issued finding that a gateway provider has failed to block as required under paragraph (n)(5) of this section, block and cease accepting all traffic received directly from the identified gateway provider beginning 30 days after the release date of the Final Determination Order. This paragraph (n)(6) applies to any provider immediately downstream from the gateway provider. The Enforcement Bureau shall provide notification by publishing the Final Determination Order in EB Docket No. 22–174 at *https://www.fcc.gov/ecfs/search/search-filings.* Providers must monitor EB Docket No. 22–174 and initiate blocking no later than 30 days from the release date of the Final Determination Order. A provider that chooses to initiate blocking sooner than 30 days from the release date may do so consistent with paragraph (k)(4) of this section.

(o) A provider that serves as a gateway provider for particular calls must, with respect to those calls, block any calls purporting to originate from a number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only:

(1) Numbers for which the subscriber to which the number is assigned has requested that calls purporting to originate from that number be blocked because the number is used for inbound calls only;

(2) North American Numbering Plan numbers that are not valid;

(3) Valid North American Numbering Plan Numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and

(4) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the calls is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

(p) Paragraphs (n)(1) and (o) of this section may contain an information-collection and/or recordkeeping requirement. Compliance with paragraphs (n)(1) and (o) will not be required until this paragraph (p) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Consumer and Governmental Affairs Bureau determines that such review is not required. The Commission directs the Consumer and Governmental Affairs Bureau to announce a compliance date for paragraphs (n)(1) and (o) by subsequent Public Notice and

notification in the **Federal Register** and to cause paragraphs (n)(1) and (o) to be revised accordingly.

Subpart HH—Caller ID Authentication

■ 5. Amend § 64.6300 by:

■ a. Redesignating paragraphs (d) through (m) as paragraphs (e) through (n);

■ b. Adding a new paragraph (d); and

■ c. Revising newly redesignated paragraph (g).

The addition and revision read as follows:

§ 64.6300 Definitions.

* * * * *

(d) *Gateway provider.* The term ''gateway provider'' means a U.S.-based intermediate provider that receives a call directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider. For purposes of this paragraph (d):

(1) *U.S.-based* means that the provider has facilities located in the United States, including a point of presence capable of processing the call; and

(2) *Receives a call directly* from a provider means the foreign provider directly upstream of the gateway provider in the call path sent the call to the gateway provider, with no providers in-between.

* * * * *

(g) *Intermediate provider.* The term ''intermediate provider'' means any entity that carries or processes traffic that traverses or will traverse the public switched telephone network at any point insofar as that entity neither originates nor terminates that traffic.

* * * * *

■ 6. Amend § 64.6302 by adding paragraph (c) to read as follows:

§ 64.6302 Caller ID authentication by intermediate providers.

* * * * *

(c) Notwithstanding paragraph (b) of this section, a gateway provider must, not later than June 30, 2023, authenticate caller identification information for all calls it receives that use North American Numbering Plan resources that pertain to the United States in the caller ID field and for which the caller identification information has not been authenticated and which it will exchange with another provider as a SIP call, unless that gateway provider is subject to an applicable extension in § 64.6304.

■ 7. Revise § 64.6303 to read as follows:

§ 64.6303 Caller ID authentication in non-IP networks.

(a) Except as provided in §§ 64.6304 and 64.6306, not later than June 30, 2021, a voice service provider shall either:

(1) Upgrade its entire network to allow for the initiation, maintenance, and termination of SIP calls and fully implement the STIR/SHAKEN framework as required in § 64.6301 throughout its network; or

(2) Maintain and be ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

(b) Except as provided in § 64.6304, not later than June 30, 2023, a gateway provider shall either:

(1) Upgrade its entire network to allow for the processing and carrying of SIP calls and fully implement the STIR/SHAKEN framework as required in § 64.6302(c) throughout its network; or

(2) Maintain and be ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

(3) Paragraph (b) of this section may contain an information collection and/or recordkeeping requirement. Compliance with paragraph (b) will not be required until this paragraph (b)(3) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Wireline Competition Bureau determines that such review is not required. The Commission directs the Wireline Competition Bureau to announce a compliance date for paragraph (b) by subsequent Public Notice and notification in the **Federal Register** and to cause paragraph (b) to be revised accordingly.

■ 8. Amend § 64.6304 by revising paragraphs (b) and (d) to read as follows:

§ 64.6304 Extension of implementation deadline.

* * * * *

(b) *Voice service providers and gateway providers that cannot obtain an SPC token.* Voice service providers that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6301 until they are capable of obtaining a SPC token. Gateway providers that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6302(c) regarding call authentication.

* * * * *

(d) *Non-IP Networks.* Those portions of a voice service provider or gateway provider's network that rely on technology that cannot initiate, maintain, carry, process, and terminate SIP calls are deemed subject to a continuing extension. A voice service provider subject to the foregoing extension shall comply with the requirements of § 64.6303(a) as to the portion of its network subject to the extension, and a gateway provider subject to the foregoing extension shall comply with the requirements of § 64.6303(b) as to the portion of its network subject to the extension.

* * * * *

■ 9. Revise § 64.6305 to read as follows:

§ 64.6305 Robocall mitigation and certification.

(a) *Robocall mitigation program requirements for voice service providers.* (1) Any voice service provider subject to an extension granted under § 64.6304 that has not fully implemented the STIR/SHAKEN authentication framework on its entire network shall implement an appropriate robocall mitigation program as to those portions of its network on which it has not implemented the STIR/SHAKEN authentication framework.

(2) Any robocall mitigation program implemented pursuant to paragraph (a)(1) of this section shall include reasonable steps to avoid originating illegal robocall traffic and shall include a commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

(b) *Robocall mitigation program requirements for gateway providers.* (1) Each gateway provider shall implement an appropriate robocall mitigation program with respect to calls that use North American Numbering Plan resources that pertain to the United States in the caller ID field.

(2) Any robocall mitigation program implemented pursuant to paragraph (b)(1) of this section shall include reasonable steps to avoid carrying or processing illegal robocall traffic and shall include a commitment to respond fully and within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

(3) Paragraph (b)(2) of this section may contain an information-collection and/or recordkeeping requirement. Compliance with paragraph (b)(2) will not be required until this paragraph (b)(3) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Wireline Competition Bureau determines that such review is not required. The Commission directs the Wireline Competition Bureau to announce a compliance date for paragraph (b) of this section by subsequent Public Notice and notification in the **Federal Register** and to cause paragraph (b) to be revised accordingly.

(c) *Certification by voice service providers in the Robocall Mitigation Database.* (1) Not later than June 30, 2021, a voice service provider, regardless of whether it is subject to an extension granted under § 64.6304, shall certify to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it originates are compliant with § 64.6301(a)(1) and (2);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it originates on that portion of its network are compliant with § 64.6301(a)(1) and (2), and the remainder of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section; or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network, and all of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section.

(2) A voice service provider that certifies that some or all of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section shall include the following information in its certification in English or with a certified English translation:

(i) Identification of the type of extension or extensions the voice service provider received under § 64.6304, if the voice service provider is not a foreign voice service provider;

(ii) The specific reasonable steps the voice service provider has taken to avoid originating illegal robocall traffic as part of its robocall mitigation program; and

(iii) A statement of the voice service provider's commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

(3) All certifications made pursuant to paragraphs (c)(1) and (2) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) A voice service provider filing a certification shall submit the following information in the appropriate portal on the Commission's website:

(i) The voice service provider's business name(s) and primary address;

(ii) Other business names in use by the voice service provider;

(iii) All business names previously used by the voice service provider;

(iv) Whether the voice service provider is a foreign voice service provider; and

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues.

(5) A voice service provider shall update its filings within 10 business days of any change to the information it must provide pursuant to paragraphs (c)(1) through (4) of this section.

(i) A voice service provider or intermediate provider that has been aggrieved by a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token need not update its filing on the basis of that revocation until the sixty (60) day period to request Commission review, following completion of the Governance Authority's formal review process, pursuant to § 64.6308(b)(1) expires or, if the aggrieved voice service provider or intermediate provider files an appeal, until ten business days after the Wireline Competition Bureau releases a final decision pursuant to § 64.6308(d)(1).

(ii) If a voice service provider or intermediate provider elects not to file a formal appeal of the Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token, the provider need not update its filing on the basis of that revocation until the thirty (30) day period to file a formal appeal with the Governance Authority Board expires.

(6) Paragraph (c)(2) of this section may contain an information collection and/or recordkeeping requirement. Compliance with paragraph (c)(2) will not be required until this paragraph (c)(6) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Wireline Competition Bureau determines that such review is not required. The Commission directs the Wireline Competition Bureau to announce a compliance date for paragraph (c)(2) by subsequent Public Notice and notification in the **Federal Register** and to cause paragraph (c)(2) to be revised accordingly.

(d) *Certification by gateway providers in the Robocall Mitigation Database.* (1) 30 days following **Federal Register** notification of OMB approval of the relevant information collection obligations, a gateway provider shall certify to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it carries or processes are compliant with § 64.6302(b);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it carries or processes on that portion of its network are compliant with § 64.6302(b); or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network for carrying or processing calls.

(2) A gateway provider shall include the following information in its certification made pursuant to paragraph (d)(1) of this section, in English or with a certified English translation:

(i) Identification of the type of extension or extensions the gateway provider received under § 64.6304;

(ii) The specific reasonable steps the gateway provider has taken to avoid carrying or processing illegal robocall traffic as part of its robocall mitigation program, including a description of how it has complied with the know-your-upstream provider requirement in § 64.1200(n)(4); and

(iii) A statement of the gateway provider's commitment to respond fully and within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

(3) All certifications made pursuant to paragraphs (d)(1) and (2) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) A gateway provider filing a certification shall submit the following information in the appropriate portal on the Commission's website:

(i) The gateway provider's business name(s) and primary address;

(ii) Other business names in use by the gateway provider;

(iii) All business names previously used by the gateway provider;

(iv) Whether the gateway provider or any affiliate is also a foreign voice service provider; and

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues.

(5) A gateway provider shall update its filings within 10 business days of any change to the information it must provide pursuant to paragraphs (d)(1) through (4) of this section, subject to the conditions set forth in paragraphs (c)(5)(i) and (ii) of this section.

(6) Paragraphs (d)(1) through (5) of this section may contain an information collection and/or recordkeeping requirement. Compliance with paragraphs (d)(1) through (5) will not be required until this paragraph (d)(6) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Wireline Competition Bureau determines that such review is not required. The Commission directs the Wireline Competition Bureau to announce a compliance date for paragraph (d) of this section by subsequent Public Notice and notification in the **Federal Register** and to cause paragraph (d) to be revised accordingly.

(e) *Intermediate provider and voice service provider obligations*—(1) *Accepting traffic from domestic voice service providers.* Intermediate providers and voice service providers shall accept calls directly from a domestic voice service provider only if that voice service provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (c) of this section and that filing has not been de-listed pursuant to an enforcement action.

(2) *Accepting traffic from foreign providers.* Beginning 90 days after the deadline for filing certifications pursuant to paragraph (d)(1) of this section, intermediate providers and voice service providers shall accept calls directly from a foreign voice service provider or foreign intermediate provider that uses North American Numbering Plan resources that pertain to the United States in the caller ID field to send voice traffic to residential or business subscribers in the United States, only if that foreign provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (c) of this section and that filing has not been de-listed pursuant to an enforcement action.

(3) *Accepting traffic from gateway providers.* Beginning 90 days after the deadline for filing certifications pursuant to paragraph (d) of this section, intermediate providers and voice service providers shall accept calls directly from a gateway provider only if that gateway provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (d) of this section, showing that the gateway provider has affirmatively submitted the filing, and that filing has not been de-listed pursuant to an enforcement action.

(4) *Public safety safeguards.* Notwithstanding paragraphs (e)(1) through (3) of this section:

(i) A provider may not block a voice call under any circumstances if the call is an emergency call placed to 911; and

(ii) A provider must make all reasonable efforts to ensure that it does not block any calls from public safety answering points and government emergency numbers.

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